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Commercial fraud: ongoing and possible future work

Note by the Secretariat*

1. The Commission may wish to recall its consideration of the subject of commercial fraud at its thirty-fifth to thirty-eighth sessions, from 2002 to 2005.[1]

2. At its thirty-fifth session in 2002, the Commission heard that fraudulent practices of an international character had a significant adverse economic impact on world commerce and regularly affected legitimate commercial institutions. It was also observed that fraudulent practices that affected international commerce had not been sufficiently addressed by international bodies, particularly with respect to their commercial aspects. The view was expressed that the Commission combined a governmental perspective with an internationally recognized expertise in international commerce and a tradition of collaboration with other international organizations, and that the Commission was well positioned to consider the phenomenon of commercial fraud. Although reservations were expressed regarding the scope of any project in this area, especially in light of limited resources, it was decided that the Secretariat should prepare a study of commercial fraud for the Commission to consider whether further work was appropriate and feasible.[2]

3. In order to assess the extent and implications of commercial fraud and consider possible recommendations regarding future action, in December 2002, the Secretariat convened a meeting of experts who regularly encounter and combat commercial fraud and who represented different regions, perspectives, and disciplines. Following from that meeting, the Secretariat prepared and issued a note on possible future work relating to commercial fraud (A/CN.9/540) as requested by the Commission at its thirty-fifth session. The note concluded that available evidence suggested that commercial fraud constituted a serious and potentially increasing threat to international commerce. The note also considered factors in

* The late submission of the document reflects the requirement for consultation with the United Nations Office on Drugs and Crime (UNODC).

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defining or describing commercial fraud, concluding that a precise definition was not currently feasible but that it would be useful to identify and detail common patterns of fraudulent commercial conduct. Finally, the note also suggested that there was an important independent commercial dimension to commercial fraud in addition to that of criminal law enforcement, and made several recommendations to the Commission in regard to future work.

4. At its thirty-sixth session in 2003, the Commission considered the note of the Secretariat (A/CN.9/540). It agreed with the recommendation that an international colloquium should be organized to permit an exchange of views from various interested parties, including those working in national Governments, intergovernmental organizations and relevant private organizations on the private law aspects of commercial fraud. It was also noted that the colloquium would provide an opportunity to promote an exchange of views with the criminal law and regulatory sectors that combat commercial fraud and to identify matters that could be coordinated or harmonized. In addition, the Commission considered that it would be useful for a study to be conducted by the Commission on Crime Prevention and Criminal Justice (the United Nations Crime Commission) through the Centre for International Crime Prevention of the United Nations Office on Drugs and Crime (UNODC), in consultation with the UNCITRAL Secretariat.[3]

5. A colloquium on international commercial fraud was held in Vienna from 14 to 16 April 2004. The speakers, panellists, and participants at the colloquium consisted of experts from each of the several practice areas examined, representing as broad a spectrum of approaches to the problem of commercial fraud as possible, and included approximately 120 participants from 30 countries. It was agreed at the colloquium that any doubts had been dispelled as to the widespread existence of commercial fraud and its significant worldwide impact, regardless of a country's economic development or system of government. It was also agreed that education and training played significant roles in fraud prevention and that it might be particularly useful to identify common warning signs and indicators of commercial fraud. It was further agreed at the colloquium that local cooperative efforts between law enforcement bodies and the private sector seemed particularly effective and should be encouraged. While some progress was made towards fashioning a description of commercial fraud, it was generally thought that additional work would be necessary to formulate a definition, characterization or precise description. In particular, it was suggested that serious consideration should be given to developing a means of gathering and publicizing statistics and information about commercial fraud and that public information about types of fraud, typical patterns, and links to other sources of information would be of considerable value in the fight against commercial fraud (see A/CN.9/555, paras. 3, 4, 25-28, and 62-71).

6. At its thirty-seventh session in 2004, the Commission considered the report of the Secretariat on the colloquium (A/CN.9/555), and agreed that the Secretariat should facilitate, whenever appropriate, the discussion of examples of commercial fraud in the particular contexts of projects worked on by the Commission so as to enable delegates involved in those projects to take the problem of fraud into account in their deliberations. In addition, with a view towards education, training, and prevention, the Commission agreed that the preparation of lists of common features present in typical fraudulent schemes could be useful as educational material for participants in international trade and other potential targets of perpetrators of fraud

to the extent such lists would help potential targets protect themselves and avoid becoming victims of fraudulent schemes. Further, it was thought that national and international organizations interested in fighting commercial fraud could be invited to circulate such material among their members in order to help test and improve those lists. While it was not proposed that the Commission itself or its intergovernmental working groups be directly involved in that activity, it was agreed that the Secretariat should consider preparing, in close consultation with experts, such materials listing common features present in typical fraudulent schemes and that the Secretariat would keep the Commission informed of progress in this regard.[4]

7. At its thirty-eighth session in 2005, the Commission's attention was drawn to resolution 2004/26 adopted by the Economic and Social Council (ECOSOC) on 21 July 2004, entitled "International cooperation in the prevention, investigation, prosecution and punishment of fraud, the criminal misuse and falsification of identity and related crimes". That resolution envisaged the convening of an intergovernmental expert group to prepare a study on fraud and the criminal misuse and falsification of identity, and to develop on the basis of such a study relevant practices, guidelines or other materials, taking into account in particular the relevant work of UNCITRAL. The resolution also recommended that the Secretary-General designate UNODC to serve as secretariat for the intergovernmental expert group, in consultation with the Secretariat of UNCITRAL.[5]

8. Also at its thirty-eighth session, the Commission heard that UNODC organized an intergovernmental expert group meeting from 17 to 18 March 2005, and that the results of the meeting had been reported to the Commission on Crime Prevention and Criminal Justice at its fourteenth session (Vienna, 23-27 May 2005; see E/CN.15/2005/11). The Commission was advised that participants at that meeting had indicated that fraud was a serious concern for their Governments and represented a problem that was rapidly expanding, both in the range of frauds being committed and their geographical scope and diversity, owing in part to developments in technology. Participants had agreed that a study of the problem should be undertaken, based on information received from Member States of the United Nations Crime Commission in response to a questionnaire on fraud and the criminal misuse and falsification of identity to be circulated by UNODC. The Commission was also informed that the UNCITRAL Secretariat had participated in the expert group meeting and the Commission expressed its support for the assistance of the UNCITRAL Secretariat in the UNODC project.[6]

I. UNCITRAL work on common features present in typical fraudulent schemes

9. In light of the suggestion of the Commission at its thirty-seventh session to consider the preparation of lists of common features present in typical fraudulent schemes, the Secretariat held a meeting of experts on commercial fraud from 12-14 October 2005 to consider issues related to the formulation of a list of such common features, including the character and content of the list, and its optimal use in education and training, with a view to the prevention of commercial fraud.

10. Pending the Commission's ultimate consideration and approval of the materials for dissemination, it was thought that the intended purposes of the project were threefold:

(a) To formulate materials that would identify patterns and characteristics of commercial fraud in a manner that would encourage the private sector to mobilize its resources to combat commercial fraud in an organized and systematic manner;

(b) To assist governmental bodies in understanding how they might help the public and private sector to address the problem of commercial fraud; and

(c) To assist the criminal law sector in understanding how best to engage the private sector in the battle against commercial fraud.

11. It was emphasized in the meeting of experts that the overall objective of the project was to create an easily accessible and understood document that would set out indicators to assist in the exposure of behaviour that could constitute commercial fraud, so that it would lend itself to fraud prevention via widespread circulation. It was thought that the intended audience for the materials could include business persons, individuals, regulators, professionals, law enforcement officers, civil and criminal litigants, and potentially courts in civil and criminal cases involving commercial fraud. It was highlighted that the nature of the materials or document envisioned was not a legislative text nor a legal text, but rather that it would fall into the category of materials that contained useful guidance and reference materials for users.

12. While it was recognized that a definition of commercial fraud would be desirable for the purposes of identifying that activity, it was emphasized that a descriptive definition, rather than a strictly legal definition, was more appropriate in light of the objectives and the intended breadth of the project, and to ensure its flexibility. Discussions are continuing regarding the required elements of that description so as to render it appropriate in all legal systems, but it is thought that the following elements should be reflected in any definition of commercial fraud:

(a) An element of deceit or inaccurate information;

(b) An economic dimension and scale;

(c) The use or misuse and compromise or distortion of commercial systems with the potential of international impact; and

(d) A loss of value.

13. It was suggested that the indicators or common features should be prefaced by an introduction or commentary, which could state the purpose of the materials and their intended target audience, which could explicitly include both developed and developing countries, as well as setting out information on the background and methodology of the project. The materials themselves could consist of the discrete treatment of a number of different indicators or characteristics of commercial fraud, but each of the indicators taken alone would not be understood to definitely indicate the presence of commercial fraud. Instead, the presence of a single indicator would send a signal that commercial fraud was a possibility, while the presence of several of the indicators would heighten that concern. A brief description would follow the identification of each indicator, which would then be followed by more detailed descriptions and examples in order to further identify the various nuances of

behaviour and form intended to be included. The examples would be drawn from various different areas of legal practice, and would include various types of victims, in order to demonstrate that they are intended for universal application in a commercial context. It was agreed that it would be useful to provide advice, warnings, or recommendations for each type of indicator, as appropriate, and that, since many of the indicators may or should overlap, cross references to other related indicators should be included.

14. It was suggested that a viable format for the preparation of common features of fraudulent schemes might be the following:

(a) A simple name by which the topic could be known and identified;

(b) A brief description accompanied by specific examples of the type of behaviour included;

(c) A more detailed explanation of each aspect of the behaviour;

(d) Warnings, advice, or recommendations; and

(e) Cross-references to related topics.

15. Various topics were also considered appropriate for treatment along the lines of the approach outlined in the paragraph above. While it was recognized that continued work on the indicators was likely to unearth other topics worthy of treatment, a preliminary list of topics could include the following:

(a) Irregular documents;

(b) Misuse of names;

(c) Misuse of technical terms;

(d) Frustration of due diligence;

(e) Disproportionate returns;

(f) Questionable or unknown source of repayment;

(g) Overly complex transactions;

(h) Fraud based on personal affinity or relationships;

(i) Undue secrecy;

(j) Over- or under-qualified employees;

(k) Certain employee incentives;

(l) Inconsistencies in transactions;

(m) Irrational or illogical aspects;

(n) Undue influence or inducements;

(o) Inappropriate request for information disclosure;

(p) Fraud perpetrated in the course of an insolvency;

(q) Misuse of motives; and

(r) Ensnarement.

16. It was also suggested that explanatory appendices to the materials could be helpful to future users. While caution was expressed regarding available resources to prepare or maintain such appendices, it was thought that the following suggestions could be considered for inclusion as appendices:

(a) A glossary of commonly-used terms, covering terms that are exclusively used in frauds and terms that have legitimate uses as well as fraudulent ones;

(b) An explanation of how to effectively perform due diligence in order to prevent being a victim of commercial fraud;

(c) Links to or a list of the URLs of legitimate websites posting warnings and information about commercial fraud;

(d) A database of fraudulent transactions that have been encountered in the past from countries around the world;

(e) A database of profiles of victims of commercial fraud; and

(f) A quiz or checklist to assist organizations or individuals in understanding whether they may be at risk.

II. UNODC fraud study

17. The progress of the work on the study on fraud and the criminal misuse and falsification of identity has been reported by UNODC to the United Nations Crime Commission at its fifteenth session (Vienna, 24-28 April 2006; see E/CN.15/2006/11).

18. As reported in that document, at its meeting in March 2005, the intergovernmental expert group agreed that the study should consider information and materials provided by the experts themselves, data available from governmental sources, including relevant and appropriate policy, legislative, research and other materials, and, where relevant and feasible, information from commercial and other intergovernmental or non-governmental sources. It was agreed that a questionnaire in two basic parts, one dealing with fraud and the other with identity fraud, should be prepared and disseminated by the UNODC secretariat to Member States of the United Nations Crime Commission to obtain information on fraud and the criminal misuse and falsification of identity.

19. The questionnaire, as amended and finalized, was attached to a note verbale dated 15 September 2005 and disseminated by the UNODC secretariat to Member States of the United Nations Crime Commission, and to the experts who had attended the meeting of the intergovernmental expert group for their consideration, with a view to their submitting to the group data, observations or conclusions in specific subject areas of the study.

20. The UNCITRAL Secretariat worked with the UNODC secretariat in the drafting of the questionnaire, and in October of 2005, with a view to collecting information from commercial and other private-sector sources, disseminated the questionnaire to the governmental and non-governmental organizations and other non-State invitees to the Commission sessions, as well as to leading corporations in various industries throughout the world, that were thought to have an interest in

either responding directly to the questionnaire, or in forwarding the questionnaire to its membership for response.

21. The UNODC secretariat has reported that it will proceed with the drafting of the study in due course in conjunction with its intergovernmental expert group. It is anticipated that the final substantive report will be submitted to the United Nations Crime Commission at its sixteenth session in 2007, and may also be submitted to the Commission for consideration at a future session.

III. Proposal for future work

22. The Commission may wish to request that:

(a) The Secretariat continue its work in conjunction with experts and other interested organizations with respect to identifying the common features of fraudulent schemes, with a view to presenting interim or final materials for the consideration of the Commission at a future session; and

(b) The Secretariat continue to assist and cooperate with UNODC in its study on fraud and on criminal misuse and falsification of identity, and that it keep the Commission informed of the progress of that work.

Notes

[1] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17* (A/57/17), paras. 279-290; ibid., *Fifty-eighth Session, Supplement No. 17* (A/58/17), paras. 231-241; ibid., *Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 108-112, and ibid., *Sixtieth Session, Supplement No. 17* (A/60/17), paras. 216-220.

[2] Ibid., *Fifty-seventh Session, Supplement No. 17* and corrigendum (A/57/17 and Corr.3), paras. 279-290.

[3] Ibid., *Fifty-eighth Session, Supplement No. 17* (A/58/17), paras. 240-241.

[4] Ibid., *Fifty-ninth Session, Supplement No. 17* (A/59/17), paras. 110-112.

[5] Ibid., *Sixtieth Session, Supplement No. 17* (A/60/17), para. 217.

[6] Ibid., *Sixtieth Session, Supplement No. 17* (A/60/17), paras. 218-219.

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Status of conventions and model laws*

Note by the Secretariat

1. At its thirteenth session, in 1980, the United Nations Commission on International Trade Law (UNCITRAL) decided[1] that it would consider, at each of its sessions, the status of conventions that were the outcome of work carried out by it.

2. The present note sets forth the status of the conventions and model laws emanating from the work of the Commission. It also shows the status of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards,[2] which, although adopted prior to the establishment of the Commission, is closely related to the work of the Commission in the area of international commercial arbitration.

3. This note indicates the changes since 9 May 2005, when the last report in this series (A/CN.9/583) was issued. States that have become parties to a convention or have enacted legislation based on a model law since the preparation of the last report are shown in bold letters in the respective list.

4. The information contained herein relating to the UNCITRAL conventions and model laws is current up to 29 May 2006. Regularly updated treaty information after the issuance of this document may be obtained by referring to the UNCITRAL home page on the Internet (http://www.uncitral.org) or, alternatively, by contacting the unit of the Secretariat that discharges the depositary functions of the Secretary-General in respect of multilateral treaties: Treaty Section, Office of Legal Affairs, United Nations Headquarters (http://www.un.org/Depts/Treaty/) (tel.: (+1-212) 963-5472; fax: (+1-212) 963-3693; e-mail: treaty@un.org).

* The submission of this document was delayed to ensure the timeliness of the information contained therein.

[1] *Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 17* (A/35/17), para. 163.

[2] United Nations, *Treaty Series*, vol. 330, No. 4739.

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5. The following texts are covered in this note (the term "action" is used generically to denote the depositing of an instrument of ratification, approval, acceptance or accession in respect of a treaty or participation in a treaty as a result of an action to a related treaty):

(a) [Unamended] Convention on the Limitation Period in the International Sale of Goods, 1974 (New York)[3] (new action by Liberia; 26 States parties);

(b) Convention on the Limitation Period in the International Sale of Goods, as amended, 1980 (New York)[4] (new action by Liberia; 19 States parties);

(c) United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg)[5] (new actions by Liberia and Paraguay; 31 States parties);

(d) United Nations Convention on Contracts for the International Sale of Goods (1980)[6] (new actions by Liberia and Paraguay; 67 States parties);

(e) United Nations Convention on International Bills of Exchange and International Promissory Notes (1988)[7] (new action by Liberia. The Convention has five States parties; it requires ten States parties for entry into force);

(f) United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (1991)[8] (new action by Paraguay. The Convention has four States parties; it requires five States parties for entry into force);

(g) United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (1995)[9] (new action by Liberia; 8 States parties);

(h) United Nations Convention on the Assignment of Receivables in International Trade (2001)[10] (new action by Liberia. The Convention has one State party; it requires five States parties for entry into force);

(i) United Nations Convention on the Use of Electronic Communications in International Contracts (2005)[11] (new actions by Central African Republic, Lebanon and Senegal);

(j) Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958)[12] (new actions by Liberia and Pakistan; 137 States parties);

(k) UNCITRAL Model Law on International Commercial Arbitration (1985)[13] (new legislation adopted on the basis of the Model Law in Austria, Denmark, Nicaragua, Norway, Poland and Turkey);

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[3] *Official Records of the United Nations Conference on Prescription (Limitation) in the International Sale of Goods, New York, 20 May-14 June 1974* (United Nations publication, Sales No. E.74.V.8), part I.

[4] United Nations publication, Sales No. E.95.V.13.

[5] United Nations publication, Sales No. E.95.V.14.

[6] United Nations publication, Sales No. E.95.V.12.

[7] United Nations publication, Sales No. E.95.V.16.

[8] *Official Records of the United Nations Conference on the Liability of Operators of Transport Terminals in International Trade, Vienna, 2-19 April 1991* (United Nations publication, Sales No. E.93.XI.3), part I, document A/CONF.152/13, annex.

[9] United Nations publication, Sales No. E.97.V.12.

[10] United Nations publication, Sales No. E.04.V.14.

[11] General Assembly resolution A/60/515, annex.

[12] United Nations, *Treaty Series*, vol. 330, No. 4739.

(l) UNCITRAL Model Law on International Credit Transfers (1992);[14]

(m) UNCITRAL Model Law on Procurement of Goods, Construction and Services (1994);[15]

(n) UNCITRAL Model Law on Electronic Commerce (1996)[16] (new legislation implementing provisions of the Model Law adopted in China and Sri Lanka; Uniform legislation influenced by the Model Law has been enacted in Canada, by the State of Alberta, and in the United States of America, by the States of Alaska and South Carolina);

(o) UNCITRAL Model Law on Cross-Border Insolvency (1997);[17] (new legislation adopted on the basis of the Model Law within Serbia and Montenegro, in Serbia; in the United Kingdom of Great Britain and Northern Ireland, in Great Britain, and in the British Virgin Islands, overseas territory of the United Kingdom of Great Britain and Northern Ireland; and in the United States of America);

(p) UNCITRAL Model Law on Electronic Signatures (2001).[18] (New legislation adopted on the basis of the Model Law in China);

(q) UNCITRAL Model Law on International Commercial Conciliation (2002)[19] (legislation based on the Model Law has been enacted in Canada, Croatia, and Hungary; uniform legislation influenced by the Model Law and the principles on which it is based has been prepared in the United States of America and enacted by the States of Illinois, Iowa, Nebraska, New Jersey, Ohio and Washington).

I. Participation in conventions

A. Convention on the Limitation Period in the International Sale of Goods, 1974 (New York)[a]

State[b]	*Signature*	*Ratification, accession, succession or participation under article XI of the Protocol of 11 April 1980*[c]	*Entry into force*
Argentina		9 October 1981[d]	1 August 1988
Belarus	14 June 1974	23 January 1997[e]	1 August 1997
Bosnia and Herzegovina		12 January 1994[f]	6 March 1992
Brazil	14 June 1974		
Bulgaria	24 February 1975		
Burundi		4 September 1998[d]	1 April 1999
Costa Rica	30 August 1974		
Cuba		2 November 1994[e]	1 June 1995

[13] United Nations publication, Sales No. E.95.V.18.
[14] United Nations publication, Sales No. E.99.V.11.
[15] United Nations publication, Sales No. E.98.V.13.
[16] United Nations publication, Sales No. E.99.V.4.
[17] United Nations publication, Sales No. E.99.V.3.
[18] United Nations publication, Sales No. E.02.V.8.
[19] United Nations publication, Sales No. E.05.V.4.

State[a]	*Signature*	*Ratification, accession, succession or participation under article XI of the Protocol of 11 April 1980*[b]	*Entry into force*
Czech Republic[g]		30 September 1993[f]	1 January 1993
Dominican Republic		23 December 1977[d]	1 August 1988
Egypt		6 December 1982[c]	1 August 1988
Ghana	5 December 1974	7 October 1975	1 August 1988
Guinea		23 January 1991[d]	1 August 1991
Hungary	14 June 1974	16 June 1983	1 August 1988
Liberia		**16 September 2005**[d]	**1 April 2006**
Mexico		21 January 1988[d]	1 August 1988
Mongolia	14 June 1974		
Nicaragua	13 May 1975		
Norway[h]	11 December 1975	20 March 1980	1 August 1988
Paraguay		18 August 2003[d]	1 March 2004
Poland	14 June 1974	19 May 1995	1 December 1995
Republic of Moldova		28 August 1997[c]	1 March 1998
Romania		23 April 1992[d]	1 November 1992
Russian Federation[i]	14 June 1974		
Serbia and Montenegro[i]		12 March 2001[f]	27 April 1992
Slovakia[g]		28 May 1993[f]	1 January 1993
Slovenia		2 August 1995[c]	1 March 1996
Uganda		12 February 1992[d]	1 September 1992
Ukraine	14 June 1974	13 September 1993	1 April 1994
United States of America		5 May 1994[d]	1 December 1994
Uruguay		1 April 1997[d]	1 November 1997
Zambia		6 June 1986[c]	1 August 1988

Parties: 26

[a] The Convention was concluded in equally authentic Chinese, English, French, Russian and Spanish texts. On 11 August 1992, the Secretary-General, in accordance with a request of UNCITRAL, circulated a proposal for the adoption of an authentic Arabic text of the Convention. No objections having been raised, the Arabic text was deemed adopted on 9 November 1992 with the same status as that of the other authentic texts referred to in the Convention.

[b] The Convention was signed by the former German Democratic Republic on 14 June 1974 and ratified by it on 31 August 1989 and entered into force on 1 March 1990.

[c] In accordance with article XI of the Protocol, the contracting parties to the amended Convention are considered to be also contracting parties to the unamended Convention in relation to any contracting party to the unamended Convention not yet a contracting party to the 1980 Protocol, unless the depositary is notified to the contrary.

[d] Accession.

[e] Participation.

[f] Succession.

[g] The former Czechoslovakia signed the Convention on 29 August 1975 and deposited an instrument of ratification on 26 May 1977, with the Convention entering into force for the former Czechoslovakia on 1 August 1988. On 28 May and 30 September 1993, respectively, Slovakia and the Czech Republic deposited instruments of succession with effect from 1 January 1993, the date of succession of both States.

[b] Declarations and reservations. Upon signature, Norway declared, and confirmed upon ratification, that, in accordance with article 34, the Convention would not govern contracts of sale where the seller and the buyer both had their relevant places of business within the territories of the Nordic States (i.e. Denmark, Finland, Iceland, Norway and Sweden).

[f] The Russian Federation continues, as from 24 December 1991, the membership of the former Union of Soviet Socialist Republics (USSR) in the United Nations and maintains, as from that date, full responsibility for all the rights and obligations of the USSR under the Charter of the United Nations and the multilateral treaties deposited with the Secretary-General.

[f] The former Yugoslavia acceded to the Convention on 27 November 1978. On 12 March 2001, the former Federal Republic of Yugoslavia declared the following:

> "The Government of the Federal Republic of Yugoslavia, having considered [the Convention], succeeds to the same and undertakes faithfully to perform and carry out the stipulations therein contained as from April 27, 1992, the date upon which the Federal Republic of Yugoslavia assumed responsibility for its international relations."

B. Convention on the Limitation Period in the International Sale of Goods, as amended, 1980 (New York)[a]

State[b]	*Accession, succession or participation under article VIII or X of the Protocol of 11 April 1980*[c]	*Entry into force*
Argentina	19 July 1983[r]	1 August 1988
Belarus	23 January 1997[r]	1 August 1997
Cuba	2 November 1994[r]	1 June 1995
Czech Republic[f, g]	30 September 1993[h]	1 January 1993
Egypt	6 December 1982[r]	1 August 1988
Guinea	23 January 1991[r]	1 August 1991
Hungary	16 June 1983[r]	1 August 1988
Liberia	**16 September 2005**[r]	**1 April 2006**
Mexico	21 January 1988[r]	1 August 1988
Paraguay	18 August 2003[r]	1 March 2004
Poland	19 May 1995[r]	1 December 1995
Republic of Moldova	28 August 1997[r]	1 March 1998
Romania	23 April 1992[r]	1 November 1992
Slovakia[f]	28 May 1993[h]	1 January 1993
Slovenia	2 August 1995[r]	1 March 1996
Uganda	12 February 1992[r]	1 September 1992
United States of America[g]	5 May 1994[r]	1 December 1994
Uruguay	1 April 1997[r]	1 November 1997
Zambia	6 June 1986[r]	1 August 1988

Parties: 19

[a] The text of the Convention, as amended, has been established by the Secretary-General, as provided for by article XIV of the Protocol.

[b] The German Democratic Republic was a participant by virtue of its accession on 31 August 1989 to the Protocol of 11 April 1980.

[c] In accordance with its article VIII, paragraph 1, the Protocol is open for accession by all States.

In accordance with article VIII, paragraph 2, of the Protocol, accession to the Protocol by any State that is not a contracting party to the unamended Convention shall have the effect of accession to the amended Convention, subject to the provisions of article XI of the Protocol.

In accordance with article X of the Protocol, ratification of or accession to the unamended Convention after the entry into force of the Protocol shall also constitute a ratification of or accession to the amended Convention if the State notifies the depositary accordingly.

[d] For information on which States listed above are parties to the 1980 amending Protocol, contact the Treaty Section, which performs the functions of the depositary in respect of the Protocol (see para. 4 above).

[e] Accession.

[f] Czechoslovakia was a participant to the Convention and the Protocol by virtue of its accession to the Protocol on 5 March 1990.

[g] Declarations and reservations. Upon accession, Czechoslovakia and the United States of America declared that, pursuant to article XII, they did not consider themselves bound by article I.

[h] Succession.

[i] Participation.

C. United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg)

State	*Signature or succession*	*Ratification, accession or succession*	*Entry into force*
Austria	30 April 1979	29 July 1993	1 August 1994
Barbados		2 February 1981[a]	1 November 1992
Botswana		16 February 1988[a]	1 November 1992
Brazil	31 March 1978		
Burkina Faso		14 August 1989[a]	1 November 1992
Burundi		4 September 1998[a]	1 October 1999
Cameroon		21 October 1993[a]	1 November 1994
Chile	31 March 1978	9 July 1982	1 November 1992
Czech Republic[b, c]	2 June 1993[d]	23 June 1995	1 July 1996
Democratic Republic of the Congo	19 April 1979		
Denmark	18 April 1979		
Ecuador	31 March 1978		
Egypt	31 March 1978	23 April 1979	1 November 1992
Finland	18 April 1979		
France	18 April 1979		
Gambia		7 February 1996[a]	1 March 1997
Georgia		21 March 1996[a]	1 April 1997
Germany	31 March 1978		
Ghana	31 March 1978		
Guinea		23 January 1991[a]	1 November 1992
Holy See	31 March 1978		
Hungary	23 April 1979	5 July 1984	1 November 1992
Jordan		10 May 2001[a]	1 June 2002
Kenya		31 July 1989[a]	1 November 1992
Lebanon		4 April 1983[a]	1 November 1992
Lesotho		26 October 1989[a]	1 November 1992
Liberia		**16 September 2005[a]**	**1 October 2006**
Madagascar	31 March 1978		
Malawi		18 March 1991[a]	1 November 1992

State	Signature or succession	Ratification, accession or succession	Entry into force
Mexico	31 March 1978		
Morocco		12 June 1981[a]	1 November 1992
Nigeria		7 November 1988[a]	1 November 1992
Norway	18 April 1979		
Pakistan	8 March 1979		
Panama	31 March 1978		
Paraguay		**19 July 2005[a]**	**1 August 2006**
Philippines	14 June 1978		
Portugal	31 March 1978		
Romania		7 January 1982[a]	1 November 1992
Saint Vincent and the Grenadines		12 September 2000[a]	1 October 2001
Senegal	31 March 1978	17 March 1986	1 November 1992
Sierra Leone	15 August 1978	7 October 1988	1 November 1992
Singapore	31 March 1978		
Slovakia[b]	28 May 1993[d]		
Sweden	18 April 1979		
Syrian Arab Republic		16 October 2002[a]	17 October 2003
Tunisia		15 September 1980[a]	1 November 1992
Uganda		6 July 1979[a]	1 November 1992
United Republic of Tanzania		24 July 1979[a]	1 November 1992
United States of America	30 April 1979		
Venezuela (Bolivarian Republic of)	31 March 1978		
Zambia		7 October 1991[a]	1 November 1992

Parties: 31

[a] Accession.

[b] The former Czechoslovakia signed the Convention on 6 March 1979. On 28 May and on 2 June 1993, respectively, Slovakia and the Czech Republic deposited their instruments of succession to the signature and the Czech Republic deposited its instrument of ratification on 23 June 1995. The Czech Republic, upon ratification, withdrew the declaration, referred to in footnote c, that had been made by the former Czechoslovakia, and lodged the declaration referred to in the second paragraph of that footnote.

[c] Declarations and reservations (excludes other reservations and declarations of a political nature). Upon signature, the former Czechoslovakia declared in accordance with article 26 the formula for converting the amounts of liability referred to in paragraph 2 of that article into the Czechoslovak currency and the amount of the limits of liability to be applied in the territory of Czechoslovakia as expressed in the Czechoslovak currency.

The Czech Republic declared that limits of carrier's liability in the territory of the Czech Republic adhered to the provision of article 6 of the Convention.

[d] Succession.

D. United Nations Convention on Contracts for the International Sale of Goods (1980)

State	*Signature*	*Ratification, accession, approval, acceptance or succession*	*Entry into force*
Argentina[a]		19 July 1983[b]	1 January 1988
Australia		17 March 1988[b]	1 April 1989
Austria	11 April 1980	29 December 1987	1 January 1989
Belarus[a]		9 October 1989[b]	1 November 1990
Belgium		31 October 1996[b]	1 November 1997
Bosnia and Herzegovina		12 January 1994[c]	6 March 1992
Bulgaria		9 July 1990[b]	1 August 1991
Burundi		4 September 1998[b]	1 October 1999
Canada[d]		23 April 1991[b]	1 May 1992
Chile[a]	11 April 1980	7 February 1990	1 March 1991
China[e]	30 September 1981	11 December 1986[f]	1 January 1988
Colombia		10 July 2001[b]	1 August 2002
Croatia[g]		8 June 1998[c]	8 October 1991
Cuba		2 November 1994[b]	1 December 1995
Cyprus		7 March 2005[b]	1 April 2006
Czech Republic[h, i]		30 September 1993[c]	1 January 1993
Denmark[j]	26 May 1981	14 February 1989	1 March 1990
Ecuador		27 January 1992[b]	1 February 1993
Egypt		6 December 1982[b]	1 January 1988
Estonia[k]		20 September 1993[b]	1 October 1994
Finland[j]	26 May 1981	15 December 1987	1 January 1989
France	27 August 1981	6 August 1982[f]	1 January 1988
Gabon		15 December 2004[b]	1 January 2006
Georgia		16 August 1994[b]	1 September 1995
Germany[l, m]	26 May 1981	21 December 1989	1 January 1991
Ghana	11 April 1980		
Greece		12 January 1998[b]	1 February 1999
Guinea		23 January 1991[b]	1 February 1992
Honduras		10 October 2002[b]	1 November 2003
Hungary[n, o]	11 April 1980	16 June 1983	1 January 1988
Iceland[j]		10 May 2001[b]	1 June 2002
Iraq		5 March 1990[b]	1 April 1991
Israel		22 January 2002[b]	1 February 2003
Italy	30 September 1981	11 December 1986	1 January 1988
Kyrgyzstan		11 May 1999[b]	1 June 2000
Latvia[a]		31 July 1997[b]	1 August 1998
Lesotho	18 June 1981	18 June 1981	1 January 1988
Liberia		**16 September 2005[b]**	**1 October 2006**
Lithuania[a]		18 January 1995[b]	1 February 1996
Luxembourg		30 January 1997[b]	1 February 1998
Mauritania		20 August 1999[b]	1 September 2000

State	*Signature*	*Ratification, accession, approval, acceptance or succession*	*Entry into force*
Mexico		29 December 1987[b]	1 January 1989
Mongolia		31 December 1997[b]	1 January 1999
Netherlands	29 May 1981	13 December 1990[c]	1 January 1992
New Zealand		22 September 1994[b]	1 October 1995
Norway[d]	26 May 1981	20 July 1988	1 August 1989
Paraguay[a]		**13 January 2006**[b]	**1 February 2007**
Peru		25 March 1999[b]	1 April 2000
Poland	28 September 1981	19 May 1995	1 June 1996
Republic of Korea		17 February 2004[b]	1 March 2005
Republic of Moldova		13 October 1994[b]	1 November 1995
Romania		22 May 1991[b]	1 June 1992
Russian Federation[a, e]		16 August 1990[b]	1 September 1991
Saint Vincent and the Grenadines[f]		12 September 2000[b]	1 October 2001
Serbia and Montenegro[g]		12 March 2001[c]	27 April 1992
Singapore[f]	11 April 1980	16 February 1995	1 March 1996
Slovakia[h, i]		28 May 1993[c]	1 January 1993
Slovenia		7 January 1994[c]	25 June 1991
Spain		24 July 1990[b]	1 August 1991
Sweden[f]	26 May 1981	15 December 1987	1 January 1989
Switzerland		21 February 1990[b]	1 March 1991
Syrian Arab Republic		19 October 1982[b]	1 January 1988
Uganda		12 February 1992[b]	1 March 1993
Ukraine[a]		3 January 1990[b]	1 February 1991
United States of America[f]	31 August 1981	11 December 1986	1 January 1988
Uruguay		25 January 1999[b]	1 February 2000
Uzbekistan		27 November 1996[b]	1 December 1997
Venezuela (Bolivarian Republic of)	28 September 1981		
Zambia		6 June 1986[b]	1 January 1988

Parties: 67

[a] Declarations and reservations. This State declared, in accordance with articles 12 and 96 of the Convention, that any provision of article 11, article 29, or part II of the Convention that allowed a contract of sale or its modification or termination by agreement or any offer, acceptance or other indication of intention to be made in any form other than in writing, would not apply where any party had its place of business in its territory.

[b] Accession.

[c] Succession.

[d] Declarations and reservations. Upon accession, Canada declared that, in accordance with article 93 of the Convention, the Convention would extend to Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island and the Northwest Territories. (Upon accession, Canada declared that, in accordance with article 95 of the Convention, with respect to British Columbia, it would not be bound by article 1, paragraph (b), of the Convention. In a notification received on 31 July 1992, Canada withdrew that declaration.) In a declaration received on 9 April 1992, Canada extended the application of the Convention to Quebec and Saskatchewan. In a notification received on 29 June

1992, Canada extended the application of the Convention to the Yukon Territory. In a notification received on 18 June 2003, Canada extended the application of the Convention to the Territory of Nunavut.

[e] Declarations and reservations. Upon approving the Convention, China declared that it did not consider itself bound by subparagraph (b) of paragraph 1 of article 1 and article 11, nor the provisions in the Convention relating to the content of article 11.

[f] Approval.

[g] Upon succeeding to the Convention, Croatia has decided, on the basis of the Constitutional Decision on Sovereignty and Independence of the Republic of Croatia of 25 June 1991 and the Decision of the Croatian Parliament of 8 October 1991 and by virtue of succession of the Socialist Federal Republic of Yugoslavia in respect of the territory of Croatia, to be considered a party to the Convention with effect from 8 October 1991, the date on which Croatia severed all constitutional and legal connections with the Socialist Federal Republic of Yugoslavia and took over its international obligations.

[h] The former Czechoslovakia signed the Convention on 1 September 1981 and deposited an instrument of ratification on 5 March 1990, with the Convention entering into force for the former Czechoslovakia on 1 April 1991. On 28 May and 30 September 1993, respectively, Slovakia and the Czech Republic deposited instruments of succession, with effect from 1 January 1993, the date of succession of both States.

[i] Declarations and reservations. This State declared that it would not be bound by paragraph 1 (b) of article 1.

[j] Declarations and reservations. Upon ratifying the Convention, Denmark, Finland, Norway and Sweden declared, in accordance with article 92, paragraph 1, that they would not be bound by part II of the Convention ("Formation of the Contract"). Upon ratifying the Convention, Denmark, Finland, Norway and Sweden declared, pursuant to article 94, paragraph 1, and article 94, paragraph 2, that the Convention would not apply to contracts of sale where the parties have their places of business in Denmark, Finland, Iceland, Sweden or Norway. In a notification effected on 12 March 2003, Iceland declared, pursuant to article 94, paragraph 1, that the Convention would not apply to contracts of sale or to their formation where the parties had their places of business in Denmark, Finland, Iceland, Norway or Sweden.

[k] Declarations and reservations. On 9 March 2004, Estonia withdrew the reservation made upon ratification mentioned in footnote a.

[l] The Convention was signed by the former German Democratic Republic on 13 August 1981 and ratified on 23 February 1989 and entered into force on 1 March 1990.

[m] Declarations and reservations. Upon ratifying the Convention, Germany declared that it would not apply article 1, paragraph 1 (b), in respect of any State that had made a declaration that that State would not apply article 1, paragraph 1 (b).

[n] Declarations and reservations. Upon ratifying the Convention, Hungary declared that it considered the General Conditions of Delivery of Goods between Organizations of the Member Countries of the Council for Mutual Economic Assistance to be subject to the provisions of article 90 of the Convention.

[o] Acceptance.

[p] The Russian Federation continues, as from 24 December 1991, the membership of the former Union of Soviet Socialist Republics (USSR) in the United Nations and maintains, as from that date, full responsibility for all the rights and obligations of USSR under the Charter of the United Nations and the multilateral treaties deposited with the Secretary-General.

[q] The former Yugoslavia signed and ratified the Convention on 11 April 1980 and 27 March 1985, respectively. On 12 March 2001, the former Federal Republic of Yugoslavia declared the following:

> "The Government of the Federal Republic of Yugoslavia, having considered [the Convention], succeeds to the same and undertakes faithfully to perform and carry out the stipulations therein contained as from April 27, 1992, the date upon which the Federal Republic of Yugoslavia assumed responsibility for its international relations."

E. United Nations Convention on International Bills of Exchange and International Promissory Notes (1988)

State	*Signature*	*Ratification or accession*
Canada	7 December 1989	
Gabon		15 December 2004[a]
Guinea		23 January 1991[a]
Honduras		8 August 2001[a]
Liberia		**16 September 2005**[a]
Mexico		11 September 1992[a]
Russian Federation[b]	30 June 1990	
United States of America	29 June 1990	

Parties: 5

[a] Accession.

[b] The Russian Federation continues, as from 24 December 1991, the membership of the former Union of Soviet Socialist Republics (USSR) in the United Nations and maintains, as from that date, full responsibility for all the rights and obligations of USSR under the Charter of the United Nations and the multilateral treaties deposited with the Secretary-General.

F. United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (1991)

State	*Signature*	*Ratification or accession*
Egypt		6 April 1999[a]
France	15 October 1991	
Gabon		15 December 2004[a]
Georgia		21 March 1996[a]
Mexico	19 April 1991	
Paraguay		**19 July 2005**[a]
Philippines	19 April 1991	
Spain	19 April 1991	
United States of America	30 April 1992	

Parties: 4

[a] Accession.

G. United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (1995)

State	*Signature*	*Ratification or accession*	*Entry into force*
Belarus	3 December 1996	23 January 2002	1 February 2003
Ecuador		18 June 1997[a]	1 January 2000
El Salvador	5 September 1997	31 July 1998	1 January 2000
Gabon		15 December 2004[a]	1 January 2006

State	*Signature*	*Ratification or accession*	*Entry into force*
Kuwait		28 October 1998[a]	1 January 2000
Liberia		**16 September 2005**[a]	**1 October 2006**
Panama	9 July 1997	21 May 1998	1 January 2000
Tunisia		8 December 1998[a]	1 January 2000
United States of America	11 December 1997		

Parties: 8

[a] Accession.

H. United Nations Convention on the Assignment of Receivables in International Trade (2001)

State	*Signature*	*Ratification or accession*
Liberia		**16 September 2005**[b]
Luxembourg[a]	12 June 2002	
Madagascar	24 September 2003	
United States of America	30 December 2003	

Party: 1

[a] Declarations and reservations. Upon signature, Luxembourg lodged the following declaration:

"Pursuant to article 39 of the Convention, the Grand Duchy of Luxembourg declares that it does not wish to be bound by chapter V, which contains autonomous conflict-of-laws rules that allow too wide an application to laws other than those of the assignor and that moreover are difficult to reconcile with the Rome Convention. The Grand Duchy of Luxembourg, pursuant to article 42, paragraph 1 (c), of the Convention, will be bound by the priority rules set forth in section III of the annex, namely those based on the time of the contract of assignment."

[b] Accession.

I. United Nations Convention on the Use of Electronic Communications in International Contracts (2005)

State	*Signature*
Central African Republic	**27 February 2006**
Lebanon	**22 May 2006**
Senegal	**7 April 2006**

J. Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958)

State	*Signature*	*Ratification, accession or succession*	*Entry into force*
Afghanistan[a, b]		30 November 2004[c]	28 February 2005
Albania		27 June 2001[c]	25 September 2001
Algeria[a, b]		7 February 1989[c]	8 May 1989
Antigua and Barbuda[a, b]		2 February 1989[c]	3 May 1989
Argentina[a, b, d]	26 August 1958	14 March 1989	12 June 1989
Armenia[a, b]		29 December 1997[c]	29 March 1998
Australia		26 March 1975[c]	24 June 1975
Austria		2 May 1961[c]	31 July 1961
Azerbaijan		29 February 2000[c]	29 May 2000
Bahrain[a, b]		6 April 1988[c]	5 July 1988
Bangladesh		6 May 1992[c]	4 August 1992
Barbados[a, b]		16 March 1993[c]	14 June 1993
Belarus[e]	29 December 1958	15 November 1960	13 February 1961
Belgium[a]	10 June 1958	18 August 1975	16 November 1975
Benin		16 May 1974[c]	14 August 1974
Bolivia		28 April 1995[c]	27 July 1995
Bosnia and Herzegovina[a, b, f, g]		1 September 1993[b]	6 March 1992
Botswana[a, b]		20 December 1971[c]	19 March 1972
Brazil		7 June 2002[c]	5 September 2002
Brunei Darussalam[a]		25 July 1996[c]	23 October 1996
Bulgaria[a, e]	17 December 1958	10 October 1961	8 January 1962
Burkina Faso		23 March 1987[c]	21 June 1987
Cambodia		5 January 1960[c]	4 April 1960
Cameroon		19 February 1988[c]	19 May 1988
Canada[f]		12 May 1986[c]	10 August 1986
Central African Republic[a, b]		15 October 1962[c]	13 January 1963
Chile		4 September 1975[c]	3 December 1975
China[a, b, o]		22 January 1987[c]	22 April 1987
Colombia		25 September 1979[c]	24 December 1979
Costa Rica	10 June 1958	26 October 1987	24 January 1988
Côte d'Ivoire		1 February 1991[c]	2 May 1991
Croatia[a, b, f, g]		26 July 1993[b]	8 October 1991
Cuba[a, b, e]		30 December 1974[c]	30 March 1975
Cyprus[a, b]		29 December 1980[c]	29 March 1981
Czech Republic[f, j]		30 September 1993[b]	1 January 1993
Denmark[a, b]		22 December 1972[c]	22 March 1973
Djibouti[f]		14 June 1983[b]	27 June 1977
Dominica		28 October 1988[c]	26 January 1989
Dominican Republic		11 April 2002[c]	10 July 2002
Ecuador[a, b]	17 December 1958	3 January 1962	3 April 1962

State	*Signature*	*Ratification, accession or succession*	*Entry into force*
Egypt		9 March 1959[c]	7 June 1959
El Salvador	10 June 1958	26 February 1998	27 May 1998
Estonia		30 August 1993[c]	28 November 1993
Finland	29 December 1958	19 January 1962	19 April 1962
France[a]	25 November 1958	26 June 1959	24 September 1959
Georgia		2 June 1994[c]	31 August 1994
Germany[a, k, l]	10 June 1958	30 June 1961	28 September 1961
Ghana		9 April 1968[c]	8 July 1968
Greece[a, b]		16 July 1962[c]	14 October 1962
Guatemala[a, b]		21 March 1984[c]	19 June 1984
Guinea		23 January 1991[c]	23 April 1991
Haiti		5 December 1983[c]	4 March 1984
Holy See[a, b]		14 May 1975[c]	12 August 1975
Honduras		3 October 2000[c]	1 January 2001
Hungary[a, b]		5 March 1962[c]	3 June 1962
Iceland		24 January 2002[c]	24 April 2002
India[a, b]	10 June 1958	13 July 1960	11 October 1960
Indonesia[a, b]		7 October 1981[c]	5 January 1982
Iran (Islamic Republic of)[a, b]		15 October 2001[c]	13 January 2002
Ireland[a]		12 May 1981[c]	10 August 1981
Israel	10 June 1958	5 January 1959	7 June 1959
Italy		31 January 1969[c]	1 May 1969
Jamaica[a, b]		10 July 2002[c]	8 October 2002
Japan[a]		20 June 1961[c]	18 September 1961
Jordan	10 June 1958	15 November 1979	13 February 1980
Kazakhstan		20 November 1995[c]	18 February 1996
Kenya[a]		10 February 1989[c]	11 May 1989
Kuwait[a]		28 April 1978[c]	27 July 1978
Kyrgyzstan		18 December 1996[c]	18 March 1997
Lao People's Democratic Republic		17 June 1998[c]	15 September 1998
Latvia		14 April 1992[c]	13 July 1992
Lebanon[a]		11 August 1998[c]	9 November 1998
Lesotho		13 June 1989[c]	11 September 1989
Liberia		**16 September 2005**[c]	**15 December 2005**
Lithuania[c]		14 March 1995[c]	12 June 1995
Luxembourg[a]	11 November 1958	9 September 1983	8 December 1983
Madagascar[a, b]		16 July 1962[c]	14 October 1962
Malaysia[a, b]		5 November 1985[c]	3 February 1986
Mali		8 September 1994[c]	7 December 1994
Malta[a, m]		22 June 2000[c]	20 September 2000
Mauritania		30 January 1997[c]	30 April 1997
Mauritius[a]		19 June 1996[c]	17 September 1996
Mexico		14 April 1971[c]	13 July 1971

State	*Signature*	*Ratification, accession or succession*	*Entry into force*
Monaco[a, b]	31 December 1958	2 June 1982	31 August 1982
Mongolia[a, b]		24 October 1994[r]	22 January 1995
Morocco[a]		12 February 1959[r]	7 June 1959
Mozambique[a]		11 June 1998[r]	9 September 1998
Nepal[a, b]		4 March 1998[r]	2 June 1998
Netherlands[a]	10 June 1958	24 April 1964	23 July 1964
New Zealand[a]		6 January 1983[r]	6 April 1983
Nicaragua		24 September 2003[r]	23 December 2003
Niger		14 October 1964[r]	12 January 1965
Nigeria[a, b]		17 March 1970[r]	15 June 1970
Norway[a, u]		14 March 1961[r]	12 June 1961
Oman		25 February 1999[r]	26 May 1999
Pakistan[a]	30 December 1958	**14 July 2005**	**12 October 2005**
Panama		10 October 1984[r]	8 January 1985
Paraguay		8 October 1997[r]	6 January 1998
Peru		7 July 1988[r]	5 October 1988
Philippines[a, b]	10 June 1958	6 July 1967	4 October 1967
Poland[a, b]	10 June 1958	3 October 1961	1 January 1962
Portugal[a]		18 October 1994[r]	16 January 1995
Qatar		30 December 2002[r]	30 March 2003
Republic of Korea[a, b]		8 February 1973[r]	9 May 1973
Republic of Moldova[a, g]		18 September 1998[r]	17 December 1998
Romania[a, b, v]		13 September 1961[r]	12 December 1961
Russian Federation[c, p]	29 December 1958	24 August 1960	22 November 1960
Saint Vincent and the Grenadines[a, b]		12 September 2000[r]	11 December 2000
San Marino		17 May 1979[r]	15 August 1979
Saudi Arabia[a]		19 April 1994[r]	18 July 1994
Senegal		17 October 1994[r]	15 January 1995
Serbia and Montenegro[a, b, g, q]		12 March 2001[h]	27 April 1992
Singapore[a]		21 August 1986[r]	19 November 1986
Slovakia[f, l]		28 May 1993[h]	1 January 1993
Slovenia[a, b, f, g]		6 July 1992[h]	25 June 1991
South Africa		3 May 1976[r]	1 August 1976
Spain		12 May 1977[r]	10 August 1977
Sri Lanka	30 December 1958	9 April 1962	8 July 1962
Sweden	23 December 1958	28 January 1972	27 April 1972
Switzerland[r]	29 December 1958	1 June 1965	30 August 1965
Syrian Arab Republic		9 March 1959[r]	7 June 1959
Thailand		21 December 1959[r]	20 March 1960
The former Yugoslav Republic of Macedonia[a, b, f, g]		10 March 1994[h]	17 September 1991
Trinidad and Tobago[a, b]		14 February 1966[r]	15 May 1966
Tunisia[a, b]		17 July 1967[r]	15 October 1967

State	*Signature*	*Ratification, accession or succession*	*Entry into force*
Turkey[a, b]		2 July 1992[c]	30 September 1992
Uganda[a]		12 February 1992[c]	12 May 1992
Ukraine[f]	29 December 1958	10 October 1960	8 January 1961
United Kingdom of Great Britain and Northern Ireland[a]		24 September 1975[c]	23 December 1975
United Republic of Tanzania[a]		13 October 1964[c]	12 January 1965
United States of America[a, b]		30 September 1970[c]	29 December 1970
Uruguay		30 March 1983[c]	28 June 1983
Uzbekistan		7 February 1996[c]	7 May 1996
Venezuela (Bolivarian Republic of)[a, b]		8 February 1995[c]	9 May 1995
Viet Nam[a, b, e, i]		12 September 1995[c]	11 December 1995
Zambia		14 March 2002[c]	12 June 2002
Zimbabwe		29 September 1994[c]	28 December 1994

Parties: 137

[a] Declarations and reservations (excludes territorial declarations and certain other reservations and declarations of a political nature). This State will apply the Convention only to recognition and enforcement of awards made in the territory of another contracting State.

[b] Declarations and reservations (excludes territorial declarations and certain other reservations and declarations of a political nature). This State will apply the Convention only to differences arising out of legal relationships, whether contractual or not, that are considered commercial under the national law.

[c] Accession.

[d] Declarations and reservations (excludes territorial declarations and certain other reservations and declarations of a political nature). Argentina declared that the Convention should be construed in accordance with the principles and rules of the National Constitution in force or with those resulting from reforms mandated by the Constitution.

[e] Declarations and reservations (excludes territorial declarations and certain other reservations and declarations of a political nature). With regard to awards made in the territory of non-contracting States, this State will apply the Convention only to the extent to which those States grant reciprocal treatment.

[f] The date of effect of the succession is as follows: for Bosnia and Herzegovina, 6 March 1992; for Croatia, 8 October 1991; for the Czech Republic, 1 January 1993; for Djibouti, 27 June 1977; for Slovakia, 1 January 1993; for Slovenia, 25 June 1991; and for the former Yugoslav Republic of Macedonia, 17 September 1991.

[g] Declarations and reservations (excludes territorial declarations and certain other reservations and declarations of a political nature). This State will apply the Convention only to those arbitral awards which were adopted after the entry into effect of the Convention.

[h] Succession.

[i] Declarations and reservations (excludes territorial declarations and certain other reservations and declarations of a political nature). Canada declared that it would apply the Convention only to differences arising out of legal relationships, whether contractual or not, that were considered commercial under the laws of Canada, except in the case of the Province of Quebec, where the law did not provide for such limitation.

[j] The former Czechoslovakia signed the Convention on 3 October 1958 and deposited an instrument of ratification on 10 July 1959. On 28 May and 30 September 1993, respectively, Slovakia and the Czech Republic deposited instruments of succession.

[k] The former German Democratic Republic acceded to the Convention on 20 February 1975 with the reservations mentioned in footnotes a, b and c.

[l] On 31 August 1998, Germany withdrew the reservation made upon ratification mentioned in footnote a.

[m] The Convention only applies with regard to Malta with respect to arbitration agreements concluded after the date of Malta's accession to the Convention.

[n] Declarations and reservations (excludes territorial declarations and certain other reservations and declarations of a political nature). This State will not apply the Convention to differences where the subject matter of the proceedings is immovable property situated in the State, or a right in or to such property.

[o] Upon resumption of sovereignty over Hong Kong on 1 July 1997, the Government of China extended the territorial application of the Convention to Hong Kong, Special Administrative Region of China, subject to the statement originally made by China upon accession to the Convention. On 19 July 2005, China declared that the Convention shall apply to the Macao Special Administrative Region of China, subject to the statement originally made by China upon accession to the Convention.

[p] The Russian Federation continues, as from 24 December 1991, the membership of the former Union of Soviet Socialist Republics (USSR) in the United Nations and maintains, as from that date, full responsibility for all the rights and obligations of USSR under the Charter of the United Nations and the multilateral treaties deposited with the Secretary-General.

[q] The former Yugoslavia acceded to the Convention on 26 February 1982. On 12 March 2001, the Secretary-General received from the Government of Yugoslavia a notification of succession, confirming the declaration dated 28 June 1982 by the Socialist Federal Republic of Yugoslavia (see footnotes a, b and g above).

[r] Declarations and reservations (excludes territorial declarations and certain other reservations and declarations of a political nature). On 23 April 1993, Switzerland notified the Secretary-General of its decision to withdraw the reciprocity declaration it had made upon ratification.

[s] Viet Nam declared that interpretation of the Convention before the Vietnamese courts or competent authorities should be made in accordance with the Constitution and the law of Viet Nam.

II. Enactments of model laws

A. UNCITRAL Model Law on International Commercial Arbitration (1985)

6. Legislation based on the UNCITRAL Model Law on International Commercial Arbitration has been enacted in Australia, Austria (2005), Azerbaijan, Bahrain, Bangladesh, Belarus, Bulgaria, Canada, Chile, China (the Hong Kong Special Administrative Region and the Macao Special Administrative Region), Croatia, Cyprus, Denmark (2005), Egypt, Germany, Greece, Guatemala, Hungary, India, Iran (Islamic Republic of), Ireland, Japan, Jordan, Kenya, Lithuania, Madagascar, Malta, Mexico, New Zealand, Nicaragua (2005), Nigeria, Norway (2004), Oman, Paraguay, Peru, the Philippines, Poland (2005), the Republic of Korea, the Russian Federation, Singapore, Spain, Sri Lanka, Thailand, Tunisia, Turkey (2001), Ukraine, the United Kingdom of Great Britain and Northern Ireland (Scotland and Bermuda, an overseas territory of the United Kingdom), the United States of America (the States of California, Connecticut, Illinois, Oregon and Texas), Zambia and Zimbabwe.

B. UNCITRAL Model Law on International Credit Transfers (1992)

7. A directive of the European Parliament and of the Council of the European Union based on the principles of the UNCITRAL Model Law on International Credit Transfers was issued on 27 January 1997.

C. UNCITRAL Model Law on Procurement of Goods, Construction and Services (1994)

8. Legislative texts based on or largely inspired by the UNCITRAL Model Law on Procurement of Goods, Construction and Services have been adopted in various States, including Albania, Azerbaijan, Croatia, Estonia, the Gambia (2001), Kazakhstan, Kenya, Kyrgyzstan, Malawi (2003), Mauritius, Mongolia, Poland, the Republic of Moldova, Romania, Slovakia, the United Republic of Tanzania, Uganda and Uzbekistan.

D. UNCITRAL Model Law on Electronic Commerce (1996)

9. Legislation implementing provisions of the Model Law has been adopted in Australia (1999), China (2004), Colombia (1999),[20] the Dominican Republic (2002),[20] Ecuador (2002),[20] France (2000), India (2000),[20] Ireland (2000), Jordan (2001), Mauritius (2000), Mexico (2000), New Zealand (2002), Pakistan (2002), Panama (2001),[20] the Philippines (2000), the Republic of Korea (1999), Singapore (1998), Slovenia (2000), South Africa (2002),[20] Sri Lanka (2006), Thailand (2002) and Venezuela (Bolivarian Republic of) (2001).

10. The Model Law has also been adopted in the Bailiwick of Guernsey (2000), the Bailiwick of Jersey (2000) and the Isle of Man (2000), all Crown Dependencies of the United Kingdom; in Bermuda (1999), the Cayman Islands (2000) and the Turks and Caicos Islands (2000), all overseas territories of the United Kingdom; and in the Hong Kong Special Administrative Region of China (2000).

11. Uniform legislation influenced by the Model Law and the principles on which it is based has been prepared in the United States (Uniform Electronic Transactions Act, adopted in 1999 by the National Conference of Commissioners on Uniform State Law) and enacted by the States of Alabama (2001), Alaska (2004), Arizona (2000), Arkansas (2001), California (1999), Colorado (2002), Connecticut (2002), Delaware (2000), Florida (2000), Hawaii (2000), Idaho (2000), Indiana (2000), Iowa (2000), Kansas (2000), Kentucky (2000), Louisiana (2001), Maine (2000), Maryland (2000), Massachusetts (2003), Michigan (2000), Minnesota (2000), Mississippi (2001), Missouri (2003), Montana (2001), Nebraska (2000), Nevada (2001), New Hampshire (2001), New Jersey (2000), New Mexico (2001), North Carolina (2000), North Dakota (2001), Ohio (2000), Oklahoma (2000), Oregon (2001), Pennsylvania (1999), Rhode Island (2000), South Carolina (2004), South Dakota (2000), Tennessee (2001), Texas (2001), Utah (2000), Vermont (2003), Virginia (2000), West Virginia (2001), Wisconsin (2004), Wyoming (2001) and the

[20] Except for the provisions on certification and electronic signatures.

District of Columbia (2001). The State of Illinois had already enacted the Model Law in 1998.

12. Uniform legislation influenced by the Model Law and the principles on which it is based has also been prepared in Canada (Uniform Electronic Commerce Act, adopted in 1999 by the Uniform Law Conference of Canada) and enacted in a number of provinces and territories, including Alberta (2001), British Columbia (2001), Manitoba (2000), New Brunswick (2001), Newfoundland and Labrador (2001), Nova Scotia (2000), Ontario (2001), Prince Edward Island (2001), Saskatchewan (2000) and Yukon (2000). Legislation influenced by the Model Law and the principles on which it is based has also been adopted in the Province of Quebec (2001).

E. UNCITRAL Model Law on Cross-Border Insolvency (1997)

13. Legislation based on the UNCITRAL Model Law on Cross-Border Insolvency has been adopted in Eritrea, Japan (2000), Mexico (2000), Poland (2003), Romania (2003), within Serbia and Montenegro, in Montenegro (2002) and Serbia (2004); South Africa (2000), in the United Kingdom of Great Britain and Northern Ireland, in Great Britain (2006); the British Virgin Islands (2005), overseas territory of the United Kingdom of Great Britain and Northern Ireland; and the United States of America (2005).

F. UNCITRAL Model Law on Electronic Signatures (2001)

14. Legislation based on the UNCITRAL Model Law on Electronic Signatures has been adopted in China (2004), Mexico (2003), and Thailand (2001).

G. UNCITRAL Model Law on International Commercial Conciliation (2002)

15. Legislation based on the UNCITRAL Model Law on International Commercial Conciliation has been enacted in Canada (2005), Croatia (2003) and Hungary (2002).

Uniform legislation influenced by the Model Law and the principles on which it is based has been prepared in:

the United States of America (Uniform Mediation Act, adopted in 2001 by the National Conference of Commissioners on Uniform State Law)

and enacted by the States of:

Illinois, Iowa, Nebraska, New Jersey, Ohio and Washington.

III. Chronological table of actions in respect of conventions

A. Convention on the Limitation Period in the International Sale of Goods, 1974 (New York)[a]

State	*Date of accession*
Ghana	7 October 1975
Dominican Republic	23 December 1977
Norway	20 March 1980
Argentina	9 October 1981
Egypt	6 December 1982
Hungary	16 June 1983
Zambia	6 June 1986
Mexico	21 January 1988
Guinea	23 January 1991
Uganda	12 February 1992
Romania	23 April 1992
Slovakia[b]	28 May 1993
Ukraine	13 September 1993
Czech Republic[b]	30 September 1993
Bosnia and Herzegovina[c]	12 January 1994
United States of America	5 May 1994
Cuba	2 November 1994
Poland	19 May 1995
Slovenia	2 August 1995
Belarus	23 January 1997
Uruguay	1 April 1997
Republic of Moldova	28 August 1997
Serbia and Montenegro[c]	12 March 2001
Paraguay	18 August 2003
Liberia	**16 September 2005**

[a] The former German Democratic Republic ratified the Convention on 31 August 1989.
[b] Succession: the former Czechoslovakia ratified the Convention on 26 May 1977.
[c] Succession: the former Yugoslavia acceded to the Convention on 27 November 1978.

B. Protocol amending the Convention on the Limitation Period in the International Sale of Goods, 1980 (New York)[a]

State	*Date of accession*
Egypt	6 December 1982
Hungary	16 June 1983
Argentina	19 July 1983
Zambia	6 June 1986

State	*Date of accession*
Mexico	21 January 1988
Guinea	23 January 1991
Uganda	12 February 1992
Romania	23 April 1992
Slovakia[b]	28 May 1993
Czech Republic[b]	30 September 1993
United States of America	5 May 1994
Cuba	2 November 1994
Poland	19 May 1995
Slovenia	2 August 1995
Belarus	23 January 1997
Uruguay	1 April 1997
Republic of Moldova	28 August 1997
Paraguay	18 August 2003
Liberia	**16 September 2005**

[a] The former German Democratic Republic acceded to the Protocol on 31 August 1989.
[b] Succession: the former Czechoslovakia acceded to the Protocol on 5 March 1990.

C. United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg)

State	*Date of accession*
Egypt	23 April 1979
Uganda	6 July 1979
United Republic of Tanzania	24 July 1979
Tunisia	15 September 1980
Barbados	2 February 1981
Morocco	12 June 1981
Romania	7 January 1982
Chile	9 July 1982
Lebanon	4 April 1983
Hungary	5 July 1984
Senegal	17 March 1986
Botswana	16 February 1988
Sierra Leone	7 October 1988
Nigeria	7 November 1988
Kenya	31 July 1989
Burkina Faso	14 August 1989
Lesotho	26 October 1989
Guinea	23 January 1991
Malawi	18 March 1991
Zambia	7 October 1991
Austria	29 July 1993

State	*Date of accession*
Cameroon	21 October 1993
Czech Republic	23 June 1995
Gambia	7 February 1996
Georgia	21 March 1996
Burundi	4 September 1998
Saint Vincent and the Grenadines	12 September 2000
Jordan	10 May 2001
Syrian Arab Republic	16 October 2002
Paraguay	**19 July 2005**
Liberia	**16 September 2005**

D. United Nations Convention on Contracts for the International Sale of Goods (1980)

State	*Date of accession*
Lesotho	18 June 1981
France	6 August 1982
Syrian Arab Republic	19 October 1982
Egypt	6 December 1982
Hungary	16 June 1983
Argentina	19 July 1983
Zambia	6 June 1986
China	11 December 1986
Italy	11 December 1986
United States of America	11 December 1986
Finland	15 December 1987
Sweden	15 December 1987
Austria	29 December 1987
Mexico	29 December 1987
Australia	17 March 1988
Norway	20 July 1988
Denmark	14 February 1989
Belarus	9 October 1989
Germany[a]	21 December 1989
Ukraine	3 January 1990
Chile	7 February 1990
Switzerland	21 February 1990
Iraq	5 March 1990
Bulgaria	9 July 1990
Spain	24 July 1990
Russian Federation[b]	16 August 1990
Netherlands	13 December 1990
Guinea	23 January 1991
Canada	23 April 1991
Romania	22 May 1991

State	*Date of accession*
Ecuador	27 January 1992
Uganda	12 February 1992
Slovakia[c]	28 May 1993
Estonia	20 September 1993
Czech Republic[c]	30 September 1993
Slovenia[d]	7 January 1994
Bosnia and Herzegovina[d]	12 January 1994
Georgia	16 August 1994
New Zealand	22 September 1994
Republic of Moldova	13 October 1994
Cuba	2 November 1994
Lithuania	18 January 1995
Singapore	16 February 1995
Poland	19 May 1995
Belgium	31 October 1996
Uzbekistan	27 November 1996
Luxembourg	30 January 1997
Latvia	31 July 1997
Mongolia	31 December 1997
Greece	12 January 1998
Croatia[d]	8 June 1998
Burundi	4 September 1998
Uruguay	25 January 1999
Peru	25 March 1999
Mauritania	20 August 1999
Kyrgyzstan	11 May 1999
Saint Vincent and the Grenadines	12 September 2000
Serbia and Montenegro[d]	12 March 2001
Iceland	10 May 2001
Colombia	10 July 2001
Israel	22 January 2002
Honduras	10 October 2002
Republic of Korea	17 February 2004
Gabon	15 December 2004
Cyprus	7 March 2005
Liberia	**16 September 2005**
Paraguay	**13 January 2006**

[a] The former German Democratic Republic ratified the Convention on 23 February 1989.

[b] The Russian Federation continues, as from 24 December 1991, the membership of the former Union of Soviet Socialist Republics (USSR) in the United Nations and maintains, as from that date, full responsibility for all the rights and obligations of USSR under the Charter of the United Nations and the multilateral treaties deposited with the Secretary-General.

[c] Succession: the former Czechoslovakia ratified the Convention on 5 March 1990.

[d] Succession: the former Yugoslavia signed and ratified the Convention on 11 April 1980 and 27 March 1985, respectively.

E. United Nations Convention on International Bills of Exchange and International Promissory Notes (1988)

State	*Date of accession*
Guinea	23 January 1991
Mexico	15 September 1992
Honduras	8 August 2001
Gabon	15 December 2004
Liberia	**16 September 2005**

F. United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (1991)

State	*Date of accession*
Georgia	21 March 1996
Egypt	6 April 1999
Gabon	15 December 2004
Paraguay	**19 July 2005**

G. United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (1995)

State	*Date of accession*
Ecuador	18 June 1997
Panama	21 May 1998
El Salvador	31 July 1998
Kuwait	28 October 1998
Tunisia	8 December 1998
Belarus	23 January 2002
Gabon	15 December 2004
Liberia	**16 September 2005**

H. United Nations Convention on the Assignment of Receivables in International Trade (2001)

State	*Date of accession*
Liberia	**16 September 2005**

I. Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958)

State	*Date of accession*
Israel	5 January 1959
Morocco	12 February 1959
Egypt	9 March 1959
Syrian Arab Republic	9 March 1959
France	26 June 1959
Thailand	21 December 1959
Cambodia	5 January 1960
India	13 July 1960
Russian Federation[a]	24 August 1960
Ukraine	10 October 1960
Belarus	15 November 1960
Norway	14 March 1961
Austria	2 May 1961
Japan	20 June 1961
Germany[b]	30 June 1961
Romania	13 September 1961
Poland	3 October 1961
Bulgaria	10 October 1961
Ecuador	3 January 1962
Finland	19 January 1962
Hungary	5 March 1962
Sri Lanka	9 April 1962
Greece	16 July 1962
Madagascar	16 July 1962
Central African Republic	15 October 1962
Netherlands	24 April 1964
United Republic of Tanzania	13 October 1964
Niger	14 October 1964
Switzerland	1 June 1965
Trinidad and Tobago	14 February 1966
Philippines	6 July 1967
Tunisia	17 July 1967
Ghana	9 April 1968
Italy	31 January 1969
Nigeria	17 March 1970
United States of America	30 September 1970
Mexico	14 April 1971
Botswana	20 December 1971
Sweden	28 January 1972
Denmark	22 December 1972
Republic of Korea	8 February 1973
Benin	16 May 1974
Cuba	30 December 1974

State	*Date of accession*
Australia	26 March 1975
Holy See	14 May 1975
Belgium	18 August 1975
Chile	4 September 1975
United Kingdom of Great Britain and Northern Ireland	24 September 1975
South Africa	3 May 1976
Spain	12 May 1977
Kuwait	28 April 1978
San Marino	17 May 1979
Colombia	25 September 1979
Jordan	15 November 1979
Cyprus	29 December 1980
Ireland	12 May 1981
Indonesia	7 October 1981
Monaco	2 June 1982
New Zealand	6 January 1983
Uruguay	30 March 1983
Djibouti	14 June 1983
Luxembourg	9 September 1983
Haiti	5 December 1983
Guatemala	21 March 1984
Panama	10 October 1984
Malaysia	5 November 1985
Canada	12 May 1986
Singapore	21 August 1986
China	22 January 1987
Burkina Faso	23 March 1987
Costa Rica	26 October 1987
Cameroon	19 February 1988
Bahrain	6 April 1988
Peru	7 July 1988
Dominica	28 October 1988
Antigua and Barbuda	2 February 1989
Algeria	7 February 1989
Kenya	10 February 1989
Argentina	14 March 1989
Lesotho	13 June 1989
Guinea	23 January 1991
Côte d'Ivoire	1 February 1991
Uganda	12 February 1992
Latvia	14 April 1992
Bangladesh	6 May 1992
Turkey	2 July 1992
Slovenia	6 July 1992
Barbados	16 March 1993

State	*Date of accession*
Slovakia	28 May 1993
Croatia	26 July 1993
Estonia	30 August 1993
Bosnia and Herzegovina	1 September 1993
Czech Republic	30 September 1993
The former Yugoslav Republic of Macedonia	10 March 1994
Saudi Arabia	19 April 1994
Georgia	2 June 1994
Mali	8 September 1994
Zimbabwe	29 September 1994
Senegal	17 October 1994
Portugal	18 October 1994
Mongolia	24 October 1994
Venezuela (Bolivarian Republic of)	8 February 1995
Lithuania	14 March 1995
Bolivia	28 April 1995
Viet Nam	12 September 1995
Kazakhstan	20 November 1995
Uzbekistan	7 February 1996
Mauritius	19 June 1996
Brunei Darussalam	25 July 1996
Kyrgyzstan	18 December 1996
Mauritania	30 January 1997
Paraguay	8 October 1997
Armenia	29 December 1997
El Salvador	26 February 1998
Nepal	4 March 1998
Mozambique	11 June 1998
Lao People's Democratic Republic	17 June 1998
Lebanon	11 August 1998
Republic of Moldova	18 September 1998
Oman	25 February 1999
Azerbaijan	29 February 2000
Malta	22 June 2000
Saint Vincent and the Grenadines	12 September 2000
Honduras	3 October 2000
Serbia and Montenegro[c]	12 March 2001
Albania	27 June 2001
Iran (Islamic Republic of)	15 October 2001
Iceland	24 January 2002
Zambia	14 March 2002
Dominican Republic	11 April 2002
Brazil	7 June 2002
Jamaica	10 July 2002
Qatar	30 December 2002

State	*Date of accession*
Nicaragua	24 September 2003
Afghanistan	30 November 2004
Pakistan	**14 July 2005**
Liberia	**16 September 2005**

[a] The Russian Federation continues, as from 24 December 1991, the membership of the former Union of Soviet Socialist Republics (USSR) in the United Nations and maintains, as from that date, full responsibility for all the rights and obligations of USSR under the Charter of the United Nations and the multilateral treaties deposited with the Secretary-General.

[b] The former German Democratic Republic acceded to the Convention on 20 February 1975.

[c] Succession: the former Yugoslavia acceded to the Convention on 26 February 1982.

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Annex

UNCITRAL legal texts

Short title	*Full title*
Hamburg Rules (1978)	United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg)[a]
Limitation Convention (1974/1980)	Convention on the Limitation Period in the International Sale of Goods, 1974 (New York),[b] and Protocol amending the Convention on the Limitation Period in the International Sale of Goods, 1980 (Vienna)[c]
UNCITRAL Arbitral Proceedings Notes (1996)	UNCITRAL Notes on Organizing Arbitral Proceedings (1996)[d]
UNCITRAL Arbitration Rules (1976)	UNCITRAL Arbitration Rules (1976)[e]
UNCITRAL Bills and Notes Convention (1988)	United Nations Convention on International Bills of Exchange and International Promissory Notes (1988)[f]
UNCITRAL Conciliation Rules (1980)	UNCITRAL Conciliation Rules (1980)[g]
UNCITRAL Construction Contracts Guide (1987)	UNCITRAL Legal Guide on Drawing Up International Contracts for the Construction of Industrial Works (1987)[h]
UNCITRAL Credit Transfer Model Law (1992)	UNCITRAL Model Law on International Credit Transfers (1992)[i]
UNCITRAL Electronic Funds Guide (1986)	UNCITRAL Legal Guide on Electronic Funds Transfers (1986)[j]
UNCITRAL Infrastructure Projects Guide (2001)	UNCITRAL Legislative Guide on Privately Financed Infrastructure Projects (2001)[k]
UNCITRAL Insolvency Law Guide (2004)	UNCITRAL Legislative Guide on Insolvency Law (2004)[l]
UNCITRAL International Countertrade Guide (1992)	UNCITRAL Legal Guide on International Countertrade Transactions (1992)[m]
UNCITRAL Model Arbitration Law (1985)	UNCITRAL Model Law on International Commercial Arbitration (1985)[n]
UNCITRAL Model Conciliation Law (2002)	UNCITRAL Model Law on International Commercial Conciliation (2002)[o]
UNCITRAL Model Insolvency Law (1997)	UNCITRAL Model Law on Cross-Border Insolvency (1997)[p]

Short title	*Full title*
UNCITRAL Model Law on Electronic Commerce (1996)	UNCITRAL Model Law on Electronic Commerce (1996)[a]
UNCITRAL Model Law on Electronic Signatures (2001)	UNCITRAL Model Law on Electronic Signatures (2001)[r]
UNCITRAL Model Procurement Law (1994)	UNCITRAL Model Law on Procurement Of Goods, Construction and Services (1994)[s]
UNCITRAL Model Provisions on Infrastructure Projects (2003)	UNCITRAL Model Legislative Provisions on Privately Financed Infrastructure Projects (2003)[t]
United Nations Assignment Convention (2001)	United Nations Convention on the Assignment of Receivables in International Trade (2001)[u]
United Nations Convention on Electronic Contracting (2005)	United Nations Convention on the Use of Electronic Communications in International Contracts (2005)[v]
United Nations Guarantee and Stand-by Convention (1995)	United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (1995)[w]
United Nations Sales Convention (1980)	United Nations Convention on Contracts for the International Sale of Goods (1980)[x]
United Nations Terminal Operators Convention (1991)	United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (1991)[y]

Notes

[a] United Nations publication, Sales No. E.95.V.14.

[b] Official Records of the United Nations Conference on Prescription (Limitation) in the International Sale of Goods, New York, 20 May-14 June 1974 (United Nations publication, Sales No. E.74.V.8), part I.

[c] Official Records of the United Nations Conference on Contracts for the International Sale of Goods, Vienna, 10 March-11 April 1980 (United Nations publication, Sales No. E.81.IV.3), part I.

[d] Official Records of the General Assembly, Fifty-first Session, Supplement No. 17 (A/51/17), part II.

[e] United Nations publication, Sales No. E.93.V.6.

[f] United Nations publication, Sales No. E.95.V.16.

[g] United Nations publication, Sales No. E.81.V.6.

[h] United Nations publication, Sales No. E.87.V.10.

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[r] United Nations publication, Sales No. E.02.V.8.
[s] United Nations publication, Sales No. E.98.V.13.
[t] United Nations publication, Sales No. E.04.V.11.
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[v] A/Res/60/21 (9 December 2005).
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Report of the Working Group on Security Interests on the work of its tenth session (New York, 1-5 May 2006)*

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* The report of the tenth session of Working Group VI is submitted on 12 May 2006, i.e. later than the required ten weeks prior to the start of the meeting, because the tenth session of the Working Group took place from 1 to 5 May 2006.

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I. Introduction

1. At its present session, Working Group VI continued its work on the preparation of a legislative guide on secured transactions pursuant to a decision taken by the Commission at its thirty-fourth session, in 2001.[1] The Commission's decision to undertake work in the area of secured credit law was taken in response to the need for an efficient legal regime that would remove legal obstacles to secured credit and could thus have a beneficial impact on the availability and the cost of credit.[2]

II. Organization of the session

2. The Working Group, which was composed of all States members of the Commission, held its tenth session in New York from 1 to 5 May 2006. The session was attended by representatives of the following States members of the Working Group: Algeria, Argentina, Austria, Belgium, Benin, Brazil, Canada, China, Colombia, Czech Republic, France, Germany, Guatemala, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Lithuania, Madagascar, Mexico, Poland, Republic of Korea, Russian Federation, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Tunisia, Uganda, United States of America and Uruguay.

3. The session was attended by observers from the following States: Dominican Republic, Guinea, Hungary, Ireland, Maldives, the Philippines and Zambia.

4. The session was also attended by observers from the following international organizations:

(a) *United Nations system*: International Monetary Fund, World Bank and World Intellectual Property Organization;

(b) International non-governmental organizations invited by the Commission: American Bar Association, Center for International Legal Studies, Commercial Finance Association, Forum for International Commercial Arbitration, International Chamber of Commerce, International Federation of Insolvency Practitioners, International Insolvency Institute, International Swaps & Derivatives Association, International Trademark Association, Max-Planck Institute for Foreign and Private International Law, National Law Center for Inter-American Free Trade, New York City Bar Association and European Law Students' Association.

5. The Working Group elected the following officers:

Chairman: Ms. Kathryn SABO (Canada)

Rapporteur: Ms. Margaret Kaggwa KASULE (Uganda)

6. The Working Group had before it the following documents: A/CN.9/WG.VI/WP.24 and Addenda 1, 2 and 5 (Recommendations) and A/CN.9/WG.VI/WP.26 and Addenda 1 to 4 (Recommendations).

7. The Working Group adopted the following agenda:

1. Opening of the session and scheduling of meetings.
2. Election of officers.

3. Adoption of the agenda.

4. Preparation of legislative guide on secured transactions.

5. Other business.

6. Adoption of the report.

III. Deliberations and decisions

8. The Working Group considered recommendations on security rights in receivables, negotiable instruments, negotiable documents, rights to payment of funds credited to bank accounts, rights to drawing proceeds from independent undertakings, as well as recommendations on pre-default rights and obligations of the parties, and recommendations 88 to 111 on default and enforcement. The deliberations and decisions of the Working Group are set forth below in chapter IV. The Secretariat was requested to revise those recommendations to reflect the deliberations and decisions of the Working Group.

IV. Preparation of a legislative guide on secured transactions

A. Security rights in receivables (A/CN.9/WG.VI/WP.26)

1. Definitions

9. Subject to substituting the word "attachments" for the word "fixtures" in definition (a) ("security right"), the Working Group approved the substance of definitions (a), (d) ("secured creditor") and (f) ("grantor") unchanged, and decided to delete definition (n) ("claim") (see para. 35). The Working Group also approved the substance of definitions (o) ("receivable"), (p) ("assignment"), (q) ("assignor"), (r) ("assignee") and (s) ("subsequent assignment") unchanged.

10. With regard to definition (t) ("account debtor"), it was agreed that the word "account" should be deleted as it was not universally understood and was inconsistent with the terminology used in the United Nations Convention on the Assignment of Receivables in International Trade ("the United Nations Assignment Convention"). As to the distinction between the debtor of the secured obligation and the debtor of the receivable, several suggestions were made, including that the terms "borrower" or "obligor" should be used for the debtor of the secured obligation. Subject to that change, the Working Group approved the substance of the definition (t).

11. With regard to definition (u) ("notification of the assignment"), it was agreed that the commentary should explain that the act of communication was also included (not just the document) and all communications were covered irrespective of whether they took place in the context of judicial or other official service of documents, or not.

12. With respect to definition (v) ("original contract"), the Working Group agreed that the definition might need to be revised to reflect the sources of non-contractual obligations (see para. 36).

13. It was also agreed that the term "writing" should be expanded to include electronic communication as stated in recommendation 11 (see A/CN.9/WG.VI/WP.21) but the issue raised regarding signature should be deferred until the substance of recommendation 12 was agreed upon by the Working Group.

2. Recommendations

Recommendations 3 (d) and (f) (parties, security rights, secured obligations and assets covered)

14. Subject to substituting the word "attachments" for the word "fixtures", the Working Group approved the substance of recommendation 3 (d). The Working Group approved the substance of recommendation 3 (f) unchanged.

Recommendation 13 (assets and obligations subject to a security right)

15. The Working Group approved the substance of recommendation 13 unchanged.

Recommendation 14 (effectiveness of a bulk assignment and an assignment of future, parts of and undivided interests in receivables)

16. Subject to deleting the word "account" from the references to "the debtor", the Working Group approved the substance of recommendation 14 unchanged.

Recommendation 15 (effectiveness of an assignment made despite an anti-assignment clause)

17. The Working Group agreed that recommendation 15 (c), limiting the scope of application of recommendation 15 to certain types of receivables, should be retained outside square brackets for the sake of consistency with the United Nations Assignment Convention. Subject to deleting the word "account" from the references to debtor, the Working Group approved the substance of recommendation 15.

Recommendation 16 (creation of a security right in a right that secures an assigned receivable, a negotiable instrument or other obligation)

18. The Working Group considered a proposal to adjust recommendation 16, dealing with the automatic creation (i.e. without a separate act of creation) of a security right in a personal or property right that secured payment of a receivable, negotiable instrument or other obligation when the obligation was an encumbered asset within the scope of the draft Guide, and to add two new recommendations. The first recommendation would deal with the automatic third-party effectiveness of the automatically created right. The second new recommendation would extend the scope of the draft Guide to include a personal or property right otherwise outside of the scope of the Guide to the limited extent that a security right in the personal or property right would be automatically created and would be automatically effective against third parties.

19. Language along the following lines was proposed for recommendation 16:

> "The law should provide that upon creation of a security right in a receivable, a negotiable instrument, or any other obligation covered as an encumbered asset by this Guide, a security right is automatically created, without further action by either the grantor or the secured creditor, in any personal or property

right that secures payment or performance of that receivable, negotiable instrument, or other obligation. If the personal or property right is an independent undertaking, the law should not provide that a security right in the right to draw under the independent undertaking is automatically created but should provide that a security right in the right to drawing proceeds from the independent undertaking is automatically created. This recommendation does not apply to a right in an immovable that under applicable law is transferable separately from a receivable, negotiable instrument or other obligation that it may secure."

20. In addition, language along the following lines was proposed for a new recommendation on third-party effectiveness:

"The law should provide that upon a security right in a receivable, a negotiable instrument, or any other obligation covered as an encumbered asset by this Guide becoming effective against third parties, a security right is automatically effective against third parties, without further action by either the grantor or the secured creditor, in any personal or property right that secures payment or performance of that receivable, negotiable instrument, or other obligation. If the personal or property right is an independent undertaking, the law should not provide that a security right in the right to draw under the independent undertaking is automatically effective against third parties but should provide that a security right in the right to drawing proceeds from the independent undertaking is automatically effective against third parties. This recommendation does not apply to a right in an immovable that under applicable law is transferable separately from a receivable, negotiable instrument or other obligation that it may secure."

21. Furthermore, to align the first two recommendations with recommendation 4 in A/CN.9/WG.VI/WP.21 addressing the scope of the Guide, language along the following lines was proposed for inclusion in recommendation 4:

"Except to the limited extent provided in recommendations 16 and [...] relating to a personal or property right that secures a receivable, negotiable instrument or other obligation that is within the scope of the Guide, the law should not apply to ... ."

22. It was agreed that automatic creation and automatic third-party effectiveness of a security right securing a receivable, negotiable instrument or other obligation would dispense with unnecessary formalities and facilitate the enhancement of the value of a receivable, negotiable instrument or other obligation as an asset on the basis of which credit might be raised and thus have a beneficial effect on the availability and the cost of credit. It was also agreed that that result should not be achieved at the expense of third-party rights, priority or enforcement.

23. However, while there was agreement as to the economic result to be achieved, diverging views were expressed as to how that result might be achieved. One view was that the secured creditor acquired a security right in the security right in a receivable, negotiable instrument. Another view was that the secured creditor would be substituted in the rights of the grantor of the security right in the receivable, negotiable instrument or other obligation. After discussion, it was agreed that the conceptual analysis or method by which the above-mentioned practical result (automatic creation and automatic third-party effectiveness) would be achieved was

not so important as long as that result was achieved and, therefore, neutral terminology should be used that would be suitable for the various legal systems.

24. With respect to independent undertakings in particular, it was agreed that the automatic creation and third-party effectiveness of a security right in a right to drawing proceeds from an independent undertaking should not affect the right to draw under the independent undertaking or the rights and obligations of the guarantor/issuer. With respect to mortgages, it was agreed that the automatic creation and third-party effectiveness of a security right in a mortgage (or the transfer of mortgage rights) should not affect third-party rights, priority or enforcement. The example was given of the securitization of receivables secured by mortgages, in which, under the proposed recommendations, the secured creditor or transferee would register in the immovable property registry only if there was default on a receivable and wanted to enforce the mortgage that secured payment of the receivable. In that connection, a note of caution was struck to the effect that the commentary should explain that implementation of those recommendations might differ from country to country depending on the general legislation, for example, on securitization of receivables secured by mortgages.

25. After discussion, the Working Group requested the Secretariat to revise recommendation 16 as proposed and to add the two new recommendations proposed. It was also agreed that recommendation 16 should also cover outright assignments of receivables and should include language along the lines of article 10 (2) to (6) of the United Nations Assignment Convention. With respect to the provision that would deal with form requirements, it was agreed that if the security right related to assets within the scope of the draft Guide, reference should be made to the form requirements of the draft Guide, while, if the relevant assets were not covered in the draft Guide, form requirements would be subject to the law governing rights in such assets to the extent that the law did not impair automatic creation and third-party effectiveness.

Recommendations 16 bis to quinquiens (pre-default rights and obligations of the assignor and assignee)

26. Subject to the deletion of recommendation 16 bis (c), dealing with international usages that were implicitly made applicable between the parties, which was not thought to be suitable for a domestic regime, the Working Group approved the substance of recommendations 16 bis to quinquiens.

Recommendations 17 to 23 (rights and obligations of the account debtor and the assignee)

27. Subject to deleting the word "account" from the references to "the debtor", the Working Group approved the substance of recommendations 17 to 23. The Working Group also agreed that in recommendation 17 (b)(ii) the reference to "State" should be retained (rather than "place") of payment in order to provide flexibility with regard to a change in the place of payment within a jurisdiction as a result of an assignment.

Recommendation 37 (third-party effectiveness of a security right in receivables)

28. The Working Group agreed to delete recommendation 37 as its substance was already covered by the general rules of the draft Guide on third-party effectiveness (for the addition of another recommendation, see para. 21).

Recommendation 88 (application of this chapter to outright transfers of receivables)

29. It was agreed that recommendation 88 should be revised to clarify that, with the exception of certain rights, obligations and remedies (e.g. the obligation of the secured creditor to account to the assignor for a surplus or the liability for a deficiency), the rights, obligations and remedies provided for in the chapter on enforcement should be available to an assignee in an outright assignment.

30. In the discussion, the suggestion was made that the qualifications included in recommendation 88 (A/CN.9/WG.VI/WP.26) with respect to outright transfers of receivables without recourse to the transferor might need to be included in the insolvency chapter. While interest was expressed in that suggestion, it was agreed that a decision would require a careful consideration of the recommendations in the insolvency chapter. After discussion, the Working Group requested the Secretariat to study the matter and prepare a note for consideration by the Working Group at a future session.

Recommendations 102 and 103 (collection of receivables)

31. The Working Group approved the substance of recommendations 102 and 103 unchanged.

Recommendations 137 and 137 bis (law applicable to security rights in intangible property)

32. There was general support for the rule reflected in the first sentence of recommendation 137. As to the second sentence, it was suggested that it be deleted since: (i) the first sentence was sufficient to indicate the general rule, (ii) the commentary could explain that there were exceptions to the general rule (such as, for example, with regard to intellectual property rights as to which the principle of territoriality was applicable) and (iii) in any case, it would be inconsistent with the approach taken in the draft Guide, which did not include special rules for security rights in intellectual property rights, to establish such rules in the context of the chapter on conflict of laws. That suggestion was objected to. It was stated that the fact that the draft Guide did not include special substantive-law rules with regard to security rights in intellectual property rights did not mean that it should not include any conflict-of-laws rules in that regard. After discussion, the Working Group approved the substance of the first sentence of recommendation 137 and agreed to retain the second sentence within square brackets for consideration of the law applicable to security rights in intellectual property rights at a later stage.

33. After discussion, the Working Group approved the substance of recommendation 137 bis unchanged.

Recommendations 146 (law applicable to the obligations of the grantor and the secured creditor) and 147 (law applicable to the rights and obligations of the account debtor, etc.)

34. Subject to deleting the word "account" from the references to "the debtor" in recommendation 147, the Working Group approved the substance of recommendations 146 and 147.

Rights to performance of non-monetary obligations ("claims")

35. The Working Group considered the question whether the recommendations on receivables should apply to rights to performance of non-monetary obligations. It was generally agreed that the recommendations on receivables could apply to contractual rights to non-monetary performance but not to all rights to performance. It was thus agreed that definition (n) ("claim") was overly broad and should be deleted. It was also agreed that some special rules might be required to preserve the rights of obligors of intangibles, such as contractual non-monetary obligations.

Non-contractual receivables

36. It was agreed that the recommendations on receivables should apply to contractual and non-contractual receivables. It was also agreed that statutory limitations on the assignability of non-contractual receivables should not be interfered with and that certain recommendations should be adjusted to apply to non-contractual receivables (e.g. references to "the original contract" might need to be deleted or substituted with more general language to cover the sources of both contractual and non-contractual receivables, and representations of the assignor were not relevant in the context of non-contractual receivables).

Outright transfers of negotiable instruments

37. In the context of its discussion of recommendation 3 (f), which dealt with outright transfers of receivables (see para. 14), the Working Group considered whether outright transfers of negotiable instruments should also be covered in the draft Guide. Differing views were expressed. One view was that they should not be covered as they did not constitute secured transactions and there was no need to subject them to registration and to the same priority rules as those applicable to security transfers, since secured creditors could be protected by taking possession of the instrument.

38. Another view was that outright transfers of negotiable instruments should be covered since they formed part of important financing transactions (e.g. securitization and forfeiting), and, in practice, it was not always easy to distinguish an outright transfer from a security transfer and a receivable from a negotiable instrument. It was pointed out, however, that there was no practice involving the outright transfer of cheques or bills of exchange. In that connection, to distinguish a promissory note from those other instruments, reference was made to promises to pay as opposed to orders to pay. However, the use of that terminology was objected to as it was not universally understood. In addition, the exclusion of outright transfers of bills of exchange was objected to on the ground that such transfers were part of important financing transactions.

39. After discussion, it was provisionally agreed that outright transfers of negotiable instruments (with the exception of cheques) should be covered. At the same time, it was agreed that the issue should be revisited after the Working Group had completed its consideration of the recommendations on negotiable instruments and other relevant recommendations, and determined whether any special rules were necessary (see para. 50).

B. Security rights in negotiable instruments (A/CN.9/WG.VI/WP.26/Add.2)

1. Definitions

40. Subject to the substitution of the word "attachments" for the word "fixtures" in recommendation (i) ("tangibles"), the Working Group approved the substance of definitions (i) and (w) ("negotiable instrument"), noting that it had already approved definition (o) ("receivable") (see para. 9).

2. Recommendations

Recommendation 3 (d) (parties, security rights, secured obligations and assets covered)

41. The Working Group noted that it had already approved the substance of recommendation 3 (d) (see para. 14).

Creation of a security right in a negotiable instrument

42. The Working Group noted that the general recommendations were sufficient to address the creation of a security right in a negotiable instrument and that the commentary should explain that creation of a security right would not affect the rights obtained by the transfer of a negotiable instrument by endorsement under negotiable instrument law.

Recommendation 24 (creation of a security right in a right that secures a negotiable instrument)

43. In view of the fact that the revised recommendation 16 would cover security rights in rights that secured negotiable instruments, the Working Group decided that recommendation 24 should be deleted.

Rights and obligations of the obligor under a negotiable instrument

44. The Working Group approved the substance of a new recommendation that read as follows: "The law should provide that as between the secured creditor and (i) the person obligated on the negotiable instrument, or (ii) other persons claiming rights under the law governing negotiable instruments, the obligations and rights of those persons are determined by the law governing negotiable instruments." It was agreed that that recommendation should be placed in a new chapter dealing with the rights and obligations of third-party obligors.

Third-party effectiveness of a security right in a negotiable instrument

45. The Working Group approved the substance of a new recommendation that read as follows: "The law should provide that, where a security right in a negotiable instrument is effective against third parties, the security right continues to be effective against third parties for a short period of [to be specified] days after the negotiable instrument has been relinquished to the grantor for the purpose of presentation, collection, enforcement, renewal". It was understood that by returning the encumbered negotiable instrument to the grantor the secured creditor would be exposed, for good reasons, to the risk of losing its security only for a short period of time and only if it had not registered a notice about its security right in the general security rights registry.

46. Accordingly, the Working Group approved the substance of that recommendation but agreed that the recommendation should be limited to situations in which security rights were made effective against third parties "by a method other than registration" or "by dispossession".

Recommendation 74 (priority of a security right in a negotiable instrument)

47. Subject to clarification that paragraphs (a) and (b) referred to the secured creditor, or the buyer or other transferee, the Working Group approved the substance of recommendation 74.

Recommendations 104 and 105 (enforcement of a security right in a negotiable instrument)

48. It was agreed that the secured creditor should have a right to enforce its security right in the negotiable instrument before default only with the consent of the grantor. It was stated that that rule should apply only if parties had not addressed the matter in the security agreement. It was also observed that a different approach would upset legitimate expectations of third-party creditors of the grantor. However, at the same time, it was agreed that, recommendation 104 should not affect any right the secured creditor might have under negotiable instrument law to collect the instrument upon maturity before default even without the consent of the grantor. It was also agreed that recommendation 104 should make it clear that the enforcement rights of the secured creditor were subject to the rights of obligors of negotiable instruments under law governing negotiable instruments. Subject to those changes, the Working Group approved the substance of recommendations 104 and 105.

Recommendations 136, 140, 146 and 147 (applicable law issues)

49. The Working Group approved the substance of recommendations 136, 140, 146 and 147 unchanged.

Outright transfers of negotiable instruments

50. Recalling its earlier discussion (see paras. 37-39), the Working Group agreed that outright transfers of negotiable instruments should not be addressed in the recommendations. It was stated that such transfers were involved in specialized markets. It was also stated that there were no financial practices that involved, for example, outright transfers of cheques. However, it was also agreed that the commentary should discuss the relevant issues for the benefit of States that might

wish to address outright transfers of negotiable instruments in their secured transactions laws. It was stated that the general recommendations on the creation, third-party effectiveness and priority of a security right in a negotiable instrument, as supplemented by the relevant asset-specific recommendations, should equally apply to outright transfers of negotiable instruments. In that connection, it was pointed out that a possible alternative third-party effectiveness rule might provide that an outright transfer could be made effective against third parties automatically upon creation. As a result, it was said, a security right that was created first would have priority over a subsequently registered right (but not over a security right that became effective against third parties by dispossession of the grantor). As to enforcement, it was observed, a different recommendation might be required to provide that the transferee of the negotiable instrument could enforce it freely without first having obtained the consent of the transferor.

C. Security rights in negotiable documents (A/CN.9/WG.VI/WP.26/Add.3)

1. Definitions

51. With respect to the definition (pp) ("possession"), it was stated that reference to the requirement for actual possession might need to be deleted, as possession of goods by the issuer of the negotiable document covering those goods might be constructive (i.e. the issuer might hold possession through another person). In response, it was noted that possession should be defined by reference to actual possession for the purposes of the draft Guide, while the nature of possession of goods by the issuer required for the issuance of a negotiable document should be left to the law governing negotiable documents.

52. Subject to the substitution of the word "attachments" for the word "fixtures" in definition (i) ("tangibles") and the deletion of references to the secured creditor in definition (pp) ("possession"), the Working Group approved the substance of definitions (i), (x) ("negotiable document") and (pp).

2. Recommendations

Recommendation 3 (d) (parties, security rights, secured obligations and assets covered)

53. The Working Group noted that it had already approved the substance of recommendation 3 (d) (see para. 14).

Recommendation 28 (creation of a security right in a negotiable document)

54. The Working Group agreed that the general rules relating to creation of a security right applied to negotiable documents as well. With respect to recommendation 28, the concern was expressed that, by requiring that the goods be in the possession of the issuer at the time the security right in the goods was created, recommendation 28 might exclude multi-modal transport documents in which the goods would be in the possession of the issuer at some point of time but would have been shipped at the time the issuer created a security right in the goods. After discussion, the Working Group approved the substance of recommendation 28

unchanged. It was agreed that, as the definition of "negotiable document" referred to the law governing negotiable documents, the issue of negotiability of multi-modal transport documents was appropriately left to that law. It was also agreed that the commentary could explain that a State might wish to address multi-modal transport documents. In addition, it was agreed that the term "issuer" could be defined in a way that would make the definition work whether a multi-modal transport document was negotiable or not.

Rights and obligations of the issuer of a negotiable document

55. The Working Group approved the substance of a new recommendation that read as follows: "The law should provide that as between the secured creditor and the issuer or other person obligated on the negotiable document, the rights and obligations of those persons are determined by the law governing negotiable documents."

Recommendation 44 (third-party effectiveness of a security right in a negotiable document)

56. The Working Group agreed that the word "only" be deleted as possession was not the only method by which a security right in a negotiable document could be made effective against third parties. It was also agreed that the words "or with respect to the goods" be deleted since, as long as the negotiable document covered the goods they would be in the possession of the issuer and thus logically could not at the same time be in the possession of the grantor. In addition, it was agreed that the commentary should discuss the notion of possession in the context of electronic negotiable documents. Subject to those changes, the Working Group approved the substance of recommendation 44.

Recommendation 44 bis (third-party effectiveness of a security right in a negotiable document)

57. The Working Group agreed recommendation 44 bis should be limited to situations in which a security right was made effective against third parties "by a method other than registration" or "by dispossession". Subject to those changes, the Working Group approved the substance of recommendation 44 bis.

Recommendations 80 and 81 (priority of security rights in negotiable documents)

58. The Working Group approved the substance of recommendations 80 and 81 unchanged.

Recommendation 109 (enforcement of a security right in a negotiable document)

59. Subject to providing that enforcement could take place before default with the consent of the grantor (rather than the issuer), the Working Group approved the substance of recommendation 109.

Recommendation 136 (law applicable to security rights in tangibles)

60. It was agreed that the creation, third-party effectiveness and priority of a security right in a negotiable document should be subject to the law of the place where the document was held. It was also agreed, however, that application of that

rule might create problems where the goods were in another State. The Working Group considered a suggestion that application of the law of the ultimate destination of the goods (see A/CN.9/WG.VI/WP.24, rec. 142) might provide a sufficient solution to that problem but was not able to reach agreement. After discussion, the Working Group requested the Secretariat to prepare a note and possibly alternative recommendations to address that problem.

Recommendation 140 (law applicable to third-party effectiveness of security rights in specified types of asset by registration)

61. It was noted that recommendation 140 referred to the law of the grantor's location only when third-party effectiveness was achieved by registration.

Recommendations 146 (law applicable to the obligations of the grantor and the secured creditor) and 147 (law applicable to the rights and obligations of the account debtor, etc.)

62. The Working Group approved the substance of recommendations 146 and 147 unchanged.

D. Security rights in rights to payment of funds credited to bank accounts (A/CN.9/WG.VI/WP.26/Add.1)

1. Definitions

63. The Working Group noted that it had already approved the substance of definition (o) ("receivable") (see para. 9). With regard to definition (cc) ("bank account"), the Working Group agreed that it should be revised to refer to the encumbered asset, namely the right to payment of funds credited to a bank account. It was also agreed that the commentary should explain that funds not credited at the time of the creation of a security right (for example interest or commissions) should also be covered. As to the meaning of the term "bank", it was agreed that it should be explained in the commentary by reference to the maintenance of accounts without going into regulatory law issues (e.g. banking licence). It was also agreed that the commentary should explain that accounts maintained by central banks or payment, clearing and settlement systems should not be covered. With respect to the definition of "control", it was agreed that control should refer to the right to payment of funds credited to a bank account (rather than to the funds) and that the third way of achieving control should be revised to focus on the secured creditor becoming the customer of the bank (i.e. the account holder). Subject to the changes mentioned above, the Working Group approved the substance of definitions (cc) and (hh).

2. Recommendations

Recommendation 3 (d) (parties, security rights, secured obligations and assets covered)

64. The Working Group noted that it had already approved the substance of recommendation 3 (d) (see para. 14).

Recommendation 26 (creation of a security right in a right to payment of funds credited to a bank account)

65. Subject to the deletion of the words "as between the secured creditor and the grantor", the Working Group approved the substance of recommendation 26.

Recommendations X and Y (rights and obligations of the depositary bank)

66. Subject to the retention of the first set of bracketed language outside square brackets and the deletion of the second set of bracketed language in recommendation X (b), the Working Group approved the substance of recommendations X and Y.

Recommendation 43 (third-party effectiveness of a security right in a right to payment of funds credited to a bank account)

67. Subject to referring to control with respect to the right to payment of funds credited to a bank account and to dealing with the issue of tracing proceeds deposited in a bank account in the context of its discussion on proceeds at a later stage, the Working Group approved the substance of recommendation 43.

Recommendations 76-78 (priority of a security right in a right to payment of funds credited to a bank account)

68. Differing views were expressed as to whether a depositary bank's security right should have priority even over a security right made effective against third parties by a prior control agreement with the depositary bank, as provided in the second sentence of recommendation 76. One view was that a depositary bank should not have priority over a secured creditor with whom it had concluded a control agreement. It was stated that the control agreement should be respected. In addition, it was observed that, if the bank wanted to have priority, it would provide so in the control agreement. Moreover, it was said that that way would be simpler and more transparent than expecting the secured creditor to later seek to obtain a subordination agreement with the bank. It was also stated that the bank's rights of set-off would not necessarily justify the super-priority of the bank because whether the bank had set-off rights would be subject to other law.

69. However, the prevailing view was that the bank should have priority even over a creditor with whom it had entered into a control agreement. It was stated that otherwise the bank would not enter into control agreements at all, which would limit the amount of credit available from creditors other than the bank (or would increase its cost), or would enter into control agreements but would limit the amount of credit it would make available to its customers (or would increase its cost). In addition, it was observed that the fact that a secured creditor with control would not have priority over the rights of the depositary bank did not render the control agreement useless, since it could still protect the secured creditor as against other competing claimants (e.g. the administrator in the insolvency of the grantor). Moreover, it was pointed out that such an approach would be consistent with the rule providing that the bank's rights of set-off would have priority. Furthermore, it was said that the secured creditor with control could always seek to obtain a subordination agreement with the depositary bank.

70. In the discussion, it was noted that, according to recommendation 77, the bank's rights of set-off would have priority over the right of any secured creditor except a secured creditor who acquired control by becoming the bank's customer. After discussion, it was agreed that, for the sake of consistency, that exception should be included in recommendation 76 as well.

71. Subject to that change, the Working Group approved the substance of recommendation 76, on the understanding that the commentary would develop the other option and discuss its implications along the lines mentioned above (for another change to recommendation 76, see para. 86). In addition, subject to referring to a secured creditor acquiring control with respect to the right to payment of funds credited to a bank account by becoming the customer of the bank, the Working Group approved the substance of recommendation 77. Moreover, subject to referring to transfer of funds rather than of the right to payment of the funds and to changing collusion to knowledge that the transfer of funds violated the terms of the security agreement, the Working Group approved the substance of recommendation 78 which was intended to protect the free flow of funds in commerce.

Recommendations 106 bis, 107 and 108 (enforcement of a security right in a right to payment of funds credited to a bank account)

72. Subject to the clarification that the secured creditor would be enforcing the grantor's right to payment of the funds credited to a bank account (except where the secured creditor would acquire control by becoming the bank's customer), the Working Group approved the substance of recommendation 106 bis. Subject to clarifying that control referred to the right to payment of funds rather than to the funds themselves, the Working Group approved the substance of recommendations 107 and 108.

Recommendation 139 (law applicable to a security right in a right to payment of funds credited to a bank account)

73. Differing views were expressed with regard to the alternatives presented in recommendation 139. One view was that the law of the State, in which the branch of the bank that maintained the account was located, should apply (alternative B). It was stated that that rule in alternative B reflected the universally-recognized, dominant and characteristic link between the funds deposited into a bank account and the depositary bank maintaining that account, conformed to the expectations of all parties purporting to assert a security right in a right to payment of funds credited to a bank account, respected the need for transparency and predictability in secured transactions and, as such, furthered the objectives of the draft Guide. In addition, it was observed that the bank account involved a bilateral relationship between the customer and the bank, and raised no problem of localization of the funds credited to a bank account because of the international harmonization of the norms governing the localization and the identification of bank accounts. Moreover, it was said that the Hague Convention on the Law Applicable to Certain Rights in Respect of Securities Held With an Intermediary ("the Hague Convention") was not designed to apply to bank accounts or even to directly-held securities. Thus, the law applicable to security rights in bank accounts should be different from the law applicable to such rights in securities accounts.

74. In addition, with respect to alternative A, it was stated that it was inconsistent with established banking practice, countered transparency and predictability by creating a trap to unwary creditors, ignored the rules set by banking regulators to control banking activities and, as such, could trigger strong opposition among banks and their national regulators. In addition, it was observed that it would be very difficult for third parties to ascertain the choice of law in an account agreement because the relevant documents were usually confidential. It was further observed that application of the law of the account agreement could have serious adverse effects on banking practice, since the rights and duties of the bank or enforcement would be made subject to a law other than that of the bank's location. It was also said that party autonomy was not appropriate in the case of proprietary law issues.

75. Another view was that the rule applicable to securities under the Hague Convention (i.e. the law governing the account, subject to the depositary bank having an office in the State whose law governed the account agreement) was preferable, since bank accounts and securities accounts were very similar in many respects and their differences did not justify subjecting them to a different law. In addition, it was observed that such an approach would provide certainty and predictability, as lenders would expect to receive a copy of the account agreement (or even obtain a control agreement) before extending credit on the basis of a bank account. Moreover, it was said that alternative B would cause uncertainty, as there was no universally acceptable system to locate bank accounts. It was also mentioned that application of the law governing the bank account would not cause any changes in practice since banks already applied that rule with respect to securities accounts.

76. It was also stated that, whatever the law applicable to bank accounts might be, it would not affect the law applicable to regulatory, tax, accounting or criminal law issues, which would remain subject to the law of the bank's relevant location. It was also said that bank secrecy was not an issue since borrowers were prepared to give lenders copies of the bank account agreements so as to obtain credit on the basis of those agreements, and often lenders would obtain a control agreement with the consent of the depositary bank. In addition, it was observed that analysis based on the principle of party autonomy was not very helpful, since alternative A referred to objective connecting factors and alternative B eventually involved some degree of choice by the parties as to the location of an account.

77. Yet another view was that neither alternative A nor alternative B was satisfactory to the extent that they would result in a transfer of and a security right in a bank account being subjected to different laws. Yet another view was that reference could be made either in alternative A or in alternative B to the law governing the control agreement between the grantor, the secured creditor and the depositary bank. After discussion, the Working Group decided to retain both alternatives.

Recommendation 140 (third-party effectiveness of security rights in specified types of asset by registration)

78. Recalling its earlier discussion of recommendation 140 (see para. 61), the Working Group decided that the reference to negotiable documents should be deleted as the law of the grantor's location did not apply to security rights in negotiable documents.

E. Security rights in rights to drawing proceeds from independent undertakings (A/CN.9/WG.VI/WP.24/Add.2)

1. Definitions

79. Subject to aligning definition (y) ("independent undertaking") with article 6 (e) of the United Nations Convention on Independent Guarantees and Stand-By Letters of Credit with respect to the confirmation of a letter of credit and definition (z) ("independent undertaking") with independent undertaking practice, while avoiding terms that might cause confusion, the Working Group approved the substance of definitions (y) and (z). As to definitions, (aa) ("guarantor/issuer") and (bb) ("nominated person"), subject to reviewing the appropriateness of referring in both to a confirmer, the Working Group approved their substance. With respect to definition (z), it was agreed that the asset subject to these recommendations was the right to proceeds and not the proceeds themselves that would take the form of money, funds in bank accounts and the like and would thus be subject to other recommendations of the draft Guide. It was also agreed that the word "drawing" should be deleted from the term "right to drawing proceeds from an independent undertaking".

80. As to definition (hh), it was agreed that it should be aligned with the definition of "control" with respect to a right to payment of funds credited to a bank account (A/CN.9/WG.VI/WP.26/Add.1, definition (hh)). Subject to that change, the Working Group approved the substance of definition (hh). While it was suggested that some discussion should be included in the commentary of the general part of the draft Guide to issues of agency, a note of caution was struck that the draft Guide should not go into other areas of law in which there were many divergences among the various legal systems.

Recommendation 3 (d) (parties, security rights, secured obligations and assets covered)

81. The Working Group noted that it had already approved the substance of recommendation 3 (d) (see para. 14).

Recommendation 16 (creation of a security right in a right that secures an assigned receivable, a negotiable instrument or other obligation)

82. The Working Group noted that it had already approved the substance of recommendation 16 (see para. 25).

Recommendation 25 (creation of a security right in a right to drawing proceeds from an independent undertaking)

83. Subject to the retention of the bracketed language outside square brackets, the Working Group approved the substance of recommendation 25.

Recommendations 25 bis, ter and quater (rights and obligations of a guarantor/issuer or nominated person)

84. With respect to recommendation 25 bis, the Working Group agreed that the reference to "the co-beneficiary" should be deleted as it was covered by the

reference to "the beneficiary" and that the reference to "prior transferor" should be placed within square brackets as it was not clear whether it was necessary. Subject to those changes, the Working Group approved the substance of recommendations 25 bis, ter and quater.

Recommendation 49 (third-party effectiveness of a security right in a right to drawing proceeds from an independent undertaking)

85. Subject to the changes agreed upon in the context of the discussion of recommendation 16 (see paras. 18-25), the Working Group approved the substance of recommendation 49.

Recommendation 62 (priority of a security right in a right to drawing proceeds from an independent undertaking)

86. It was agreed that the commentary should explain that, depending on the terms of the acknowledgment, the guarantor/issuer might be liable to an acknowledged secured creditor that would lose in a priority contest with the first acknowledged secured creditor. It was also agreed that a similar rule should be inserted in recommendation 76 (see paras. 68-71) to the effect that, among creditors that had obtained a control agreement with respect to the same bank account, priority would be determined on the basis of the time of conclusion of the control agreement, while, depending on the terms of the control agreement, the depositary bank might be liable to the secured creditor that lost the priority contest. Subject to those changes, the Working Group approved the substance of recommendations 62 and 76.

Recommendation 106 (enforcement of a security right in a right to drawing proceeds from an independent undertaking)

87. It was agreed that a security right in a right to drawing proceeds from an independent undertaking should be enforceable even before default if so agreed between the secured creditor and the grantor. Subject to that change, the Working Group approved the substance of recommendation 106.

Recommendations 138 and 138 bis (law applicable to a security right in a right to drawing proceeds from an independent undertaking)

88. Support was expressed for recommendations 138 and 138 bis. At the same time, it was widely felt that they should be explained in the commentary, possibly with the use of examples. The concern was also expressed that application of recommendation 138 bis, which would apply in more cases than recommendation 138 as independent undertakings were typically used to enhance the value of a receivable or other obligation, might be problematic to the extent that a State might not have enacted recommendations 16 and 49 providing for automatic creation and third-party effectiveness. Subject to revising recommendation 138 bis to address that concern, the Working Group approved the substance of recommendations 138 and 138 bis.

F. Chapter VII. Pre-default rights and obligations of the parties (A/CN.9/WG.VI/WP.24/Add.1)

Purpose

89. The Working Group approved the purpose section unchanged.

Recommendation 86 (party autonomy)

90. It was agreed that recommendation 86 reflected a general principle and should be moved to the general provisions of the draft Guide.

Recommendation 87 (suppletive rules)

91. It was agreed that the words "preserve and protect" should be substituted for the word "care" in paragraph (a). With respect to paragraph (d), the Working Group agreed that the discharge of the security right and the return of the encumbered asset (in the case of a possessory security right), required full payment of the secured obligation, as well as termination of all lending commitments. It was also agreed that the structure of the recommendation should be aligned with the structure of the relevant commentary (A/CN.9/WG.VI/WP.9/Add.4). After discussion, the Working Group approved the substance of recommendation 87.

G. Chapter VIII. Default and enforcement (A/CN.9/WG.VI/WP.24/Add.1)

Purpose

92. The Working Group approved the purpose section unchanged.

Recommendation 88 (application of this chapter to outright transfers of receivables)

93. The Working Group noted that it had already approved the substance of recommendation 88 (see para. 29).

Recommendations 89 (general standard of conduct) and 89 bis (liability for failure to comply with recommendations of this chapter)

94. While the view was expressed that recommendations 89 and 89 bis reflected general principles and should be placed in the general part of the draft Guide, it was agreed that they should be retained in the enforcement chapter until the Working Group had an opportunity to consider the impact of their application to other chapters of the draft Guide. With respect to the term "good faith", it was suggested that it implied a subjective text of knowledge and should be supplemented by an objective test of "fair dealing". That suggestion was objected to. It was stated that that matter was within the realm of the law of obligations rather than property law and the reference to "commercial reasonableness" was in that connection more appropriate. After discussion, the Working Group approved the substance of recommendations 89 and 89 bis unchanged.

Recommendations 90 and 91 (party autonomy)

95. The Working Group considered whether recommendation 90 should be moved to the general part of the draft Guide and agreed that the decision be deferred until all the recommendations had been carefully examined. After discussion, the Working Group approved the substance of recommendations 90 and 91 unchanged.

Recommendation 92 (rights and remedies after default)

96. The Working Group approved the substance of recommendation 92 unchanged.

Recommendations 93 (secured creditor remedies) and 94 (judicial and extrajudicial enforcement)

97. The Working Group approved the substance of recommendations 93 and 94 unchanged.

Recommendation 95 (grantor remedies)

98. The suggestion was made that the title of recommendation 95 should be revised to refer to "grantor rights". It was also suggested that the word "may" in the chapeau of recommendation 95 be replaced by stronger language along the lines "was entitled to". Subject to those changes, the Working Group approved the substance of recommendation 95.

Recommendations 96 (cumulative remedies) and 97 (other remedies)

99. The Working Group approved the substance of recommendations 96 and 97 unchanged and noted that recommendation 96, read together with recommendations 95 and 97, provided the secured creditor and the grantor with various options in the exercise of their rights and remedies. These included the right of the secured creditor to choose the asset or assets against which enforcement was sought, the right to start exercising one remedy and then change to another and the right to enforce the secured obligation or the security right or both up to full payment of the secured obligation.

Recommendation 98 (release of encumbered assets after full payment)

100. Subject to the inclusion of a reference to termination of any lending commitments, the Working Group approved the substance of recommendation 98.

Recommendation 99 (notice of intention to pursue extrajudicial enforcement)

101. After discussion, the Working Group decided to delete recommendation 99 on the understanding that a reference to a notice of intention to pursue extrajudicial enforcement would be introduced, as an alternative, to recommendation 101.

Recommendation 100 (objections to extrajudicial enforcement)

102. The Working Group approved the substance of recommendation 100 and agreed that the second sentence, in particular, should be clearly explained in the commentary.

Recommendation 101 (secured creditor's right to take possession of an encumbered asset)

103. The Working Group requested the Secretariat to prepare two alternatives, one along the lines of the first two sentences of recommendation 101 and another providing for a notice of intention to pursue extrajudicial enforcement. In addition, it was agreed that the principle of summary proceedings should be reflected in a recommendation that would apply to all the rights and remedies provided in the chapter on enforcement. Moreover, it was agreed that the commentary should discuss the notice of default, which was typically dealt with in the law of obligations. It was also suggested that the reference to use or threat of force might be expanded to cover illegal or abusive conduct in general.

Recommendations 102-109 (enforcement of security rights in receivables, negotiable instruments, proceeds of independent undertakings, funds credited to bank accounts and negotiable documents)

104. The Working Group noted that it had already approved the substance of recommendations 102 to 109 (see paras. 31, 48, 59, 72 and 87).

Recommendations 110 and 110 bis (disposition of encumbered assets)

105. After discussion, the Working Group approved the substance of recommendations 110 and 110 bis unchanged.

Recommendation 111 (advance notice with respect to extrajudicial disposition of encumbered assets)

106. Subject to positively requiring a notice of extrajudicial disposition, the Working Group approved the substance of recommendation 111.

V. Future work

107. It was widely felt that intellectual property rights (e.g. copyrights, patents or trademarks) were increasingly becoming an extremely important source of credit and should not be excluded from a modern secured transactions law. In that connection, it was stated that financing transactions with respect to equipment or inventory often included security rights in intellectual property rights as an essential and valuable component. It was also observed that significant financing transactions involving security rights in all the assets of a business grantor would typically include intellectual property rights.

108. The Working Group recalled that the recommendations of the draft Guide generally applied to security rights in intellectual property rights to the extent they were not inconsistent with intellectual property law (see A/CN.9/WG.VI/WP.26/Add.7, rec. 3 (h)). The Working Group also recalled that, as the recommendations had not been prepared with the special intellectual property law issues in mind, the draft Guide recommended that enacting States might wish to make any necessary adjustments to the recommendations to address those issues.

109. The Working Group noted that the Commission was expected to approve in principle the substance (i.e. the policy, not the formulation) of the recommendations

of the draft Guide at its upcoming thirty-ninth session (New York, 19 June to 7 July 2006). It was noted that the Commission would discuss the recommendations of the draft Guide from 19 to 23 June 2006, with the adoption of the report of that part of the Commission's session scheduled to take place on Monday, 26 June 2006 (see A/CN.9/587, para. 53).

110. The Working Group also noted that its eleventh and twelfth sessions were scheduled to take place in Vienna from 4 to 8 December 2006 and in New York from 12 to 16 February 2007 respectively, those dates being subject to approval by the Commission at its upcoming thirty-ninth session.

Notes

[1] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 17* and corrigendum (A/56/17 and Corr.3), paragraph 358. For a history of the project, see A/CN.9/WG.VI/WP.22. The reports of the first to the seventh sessions of the Working Group are contained in documents A/CN.9/512, A/CN.9/531, A/CN.9/532, A/CN.9/543 and A/CN.9/549, A/CN.9/570 and A/CN.9/574. The reports of the first and the second joint sessions of Working Group V (Insolvency Law) and VI (Security Interests) are contained in documents A/CN.9/535 and A/CN.9/550. The consideration of those reports by the Commission is reflected in documents A/57/17 (paras. 202-204), A/58/17 (paras. 217-222), A/59/17 (paras. 75-78) and A/60/17 (paras. 185-187).

[2] Ibid., *Fifty-fifth Session, Supplement No. 17* (A/55/17), paragraph 455, and *Fifty-sixth Session, Supplement No. 17* and corrigendum (A/56/17 and Corr.3), paragraph 347.